TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1[redacted] 1919

No. [redacted] 1655

THE UNITED STATES OF AMERICA, APPELLANT,

vs.

UNITED STATES STEEL CORPORATION ET AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF NEW JERSEY.

VOLUME 2.

PLAINTIFF'S TESTIMONY.

FILED MAY 12, 1916.

(25292)

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SEVENTH DAY.

ROOM 210, CUSTOM HOUSE BUILDING,
NEW YORK CITY, Tuesday, May 14, 1912.

The hearing was resumed at 10:15 o'clock a. m., before Special Examiner Henry P. Brown.

JAMES P. McFARLAND,

called as a witness in behalf of the United States, being first duly sworn, testified as follows:

DIRECT EXAMINATION,

By MR. DICKINSON:

Q. Where do you live, Mr. McFarland?

A. I live just out of Philadelphia; north of Philadelphia.

Q. How long have you lived there?

A. About twenty years.

Q. What is your age?

A. Not quite 61.

Q. In what business are you engaged?

A. I am a jobber of tin plate and metals.

Q. What is the name of your firm?

A. Gummy, McFarland & Company.

Q. How long have you been associated with that firm?

A. Since 1879.

Q. And that firm has been continuously engaged in that business during that time?

A. Yes, sir.

Q. Just state, Mr. McFarland, what the business of that firm has been in connection with tin plate; whether you have handled it and sold it.

A. We have always handled tin plate and distributed it as jobbers.

Q. Over what section of the country?

A. All the eastern part of the United States; and the West, but not the extreme West.

Q. Were you a manufacturer of tin plate or not?

A. At one time we dipped plates.

Q. When was that?

A. That was before the formation of the Tin Plate Company.

Q. Since that time you have bought tin plate?

A. Yes.

Q. And have sold it generally in the trade?

A. Yes, sir.

Q. Mainly in the eastern part of the country?

A. The eastern part of the country and as far west as Milwaukee.

Q. State whether or not, Mr. McFarland, in the conduct of your business in the solicitation of and the supplying of the trade you came in contact with and knew those concerns in this country who were making tin plate from time to time from the time the industry began in this country down to the present time.

A. You want to know my experience?

Q. I want to know if you were generally acquainted with them.

A. Yes; we were generally acquainted with them.

Q. It was a part of your business to become acquainted with them?

A. Yes, sir; to a certain extent.

Q. To know those who were in the market and in the business?

A. We knew them generally.

Q. Did they or not solicit your trade?

A. You mean the manufacturers at large?

Q. The different makers.

A. Yes, sir.

Q. And would you or would you not look them up and buy from those who presented favorable terms?

A. We never had any trouble in buying all the tin plate we wanted.

Q. Did you have any private brands?

A. Yes, sir.

Q. Explain, Mr. McFarland, the nature of these brands and their significance. You were a jobber, were you?

A. Yes, sir.

Q. Explain the significance that these brands had to a jobber in his trade and in keeping up his trade?

A. We had a number of private brands stamped with our name, and they were a valuable asset in our business.

Q. You had built up a reputation, had you, for those brands?

A. Yes, sir.

Q. Were they known in the trade on account of their merit?

A. They were; yes, sir.

Q. And they were known by their names?

A. Yes, sir.

Q. State whether or not they were called for by the brand name by people who used that character of tin?

A. They were, by the brand names.

Q. Were they known to architects?

A. Yes, sir.

Q. And the smaller dealers who bought them from you?

A. Yes, sir.

Q. Was or was not the business of people like you, who had brands and had built up a trade through the acquaintanceship that the trade acquired of those brands largely dependent upon those brands?

A. A great many were, and used those entirely.

Q. Suppose, Mr. McFarland, for any reason a considerable period, say a year or six months, should intervene when you could not get those brands made, what effect would that have on a business of that character?

A. They would have to use other brands of equal quality.

Q. State what effect that would have upon those who, previous to that, had been accustomed to specify those brands and want them for use.

MR. LINDABURY: That is objected to as calling for a speculation and opinion evidence.

(By request, the stenographer repeated the question.)

By MR. DICKINSON:

Q. Do you understand that question?

A. I do.

Q. Please answer it, will you?

A. Shall I answer it?

Q. Oh, yes; answer it.

MR. LINDABURY: There is nobody to rule on the questions, Mr. McFarland; we simply note our objections for the purposes of the record.

THE WITNESS: The inquirer for those brands might have to make his purchases in another direction. The architect who had specified them or the owner who wanted them on his building would have to allow another brand of plate to be put on.

By MR. DICKINSON:

Q. Then other brands would be delivered in place of those brands?

A. Yes, sir.

Q. What effect would that have upon the trade of a man who had built up a reputation upon those brands and the continuity of supply of those brands?

MR. LINDABURY: We make the same objection as before.

A. It might result in a smaller sale of those brands, and the use of brands that had taken their place for the time being, particularly if the other brands were of as good a quality.

By MR. DICKINSON:

Q. State whether or not it might result in the shifting of custom and business.

MR. LINDABURY: That is objected to. I suppose it may be understood that this line of inquiry is under the same objection, without my repeating the objection each time?

MR. DICKINSON: Yes.

MR. LINDABURY: My objection is that it calls for speculation on the part of the witness.

MR. DICKINSON: I am calling for his opinion as an expert.

MR. LINDABURY: I object to it as opinion evidence.

A. What do you mean by "shifting of custom and business"?

By Mr. Dickinson:

Q. Shifting of custom to other dealers.

A. Yes; to a certain extent it might.

Q. Would that, or would it not, in your judgment, be injurious to a man who could not continue to supply his brand for any reason in the market?

A. Yes; there would be an injury.

Q. After the formation of the American Tin Plate Company did you or did you not enter into any contracts with that company whereby they agreed to manufacture your brands of tin, and you agreed to assign to them your brands?

A. Yes. Before making the brands, and after having made them for a time, they decided that we must assign our brands to them if we wanted them manufactured.

Q. State whether or not that was a condition upon which they agreed to continue to make your brands?

A. That was the condition.

Q. If you wanted them to make your brands, you had to assign those brands to them?

A. We had to assign those brands to them.

Q. Have you a letter with you of March 13, 1899, from Mr. O. M. Stuart?

A. Yes, sir.

Q. This letter is written to Gummy, McFarland & Company, of Philadelphia, Pennsylvania, and is signed by the American Tin Plate Company, by O. M. Stuart, Sales Agent?

A. Yes, sir.

Q. There is also a memorandum attached thereto?

A. Yes, sir.

Q. You identify those?

A. I do.

Mr. Dickinson: I now offer the letter and the attached memorandum in evidence.

(The papers so identified were thereupon offered in evidence and marked "Government's Exhibits Nos. 75 and 76. May 14, 1912.")

Mr. Dickinson: I will read the letter, Government's Exhibit No. 75:

(Reading) "CHICAGO, Mar. 13, 1899.

"GUMMY, MCFARLAND & CO.,
"Philadelphia, Pa.

"GENTLEMEN:

"We are duly in receipt of your favor of the 10th inst., in regard to your 'Phoenix' and 'Alderly' brands of terne plate.

"It is the company's intention to continue the furnishing of private brands subject to special arrangements, the main points of which are embodied in the enclosed memorandum.

"Please read the same, and on receipt of your reply that it is satisfactory to you, we shall be pleased to make quotations on such plates as you require thereunder.

"We have forwarded a copy of this letter to Mr. Dickerson, of 255 Fulton St., New York City, our Eastern Sales Agt., with whom kindly take this matter up at your convenience.

"Very truly yours,

"AMERICAN TIN PLATE CO.,
"C. M. Stuart,
"Sales Agt.

"Please address reply to Sales Department."

And the memorandum reads as follows:

"MEMORANDUM.

"We shall continue to furnish private brands under arrangement with buyers covering the following principal points:

"FIRST: A full description of the quality and character of each particular brand, and a statement of the number of boxes, 20x28, of such brand handled during the year 1898, to be furnished this company, and when such brand is approved by it, it will be manufactured for the exclusive use of the person, firm or corporation submitting such informa-

tion and complying with the further conditions hereinafter proposed.

"The purpose of this provision is to avoid, as far as possible, the manufacture of plates of inferior quality, or increasing the number of brands beyond the list of those well introduced and for which a good trade is already established.

"SECOND: On the approval by the company of a private brand, and its agreement to use the same solely for the plates of the concern entitled to such use, a formal conveyance is to be made to this company of such brand. The title acquired by the company, however, to be non-assignable, and to revert to the original owner, if the company should dissolve, go out of business, or assign.

"The purpose of this provision is to protect this company in the exclusive manufacture of plates under the several brands that may be assigned to them, and to compensate it in a measure for the loss of opportunity to build up a reputation for the brands it would otherwise establish and distribute. It may be said that no value is conveyed under this arrangement, as the value of a brand or trade-mark is solely in its use, and that remains for the benefit of its original owner.

"The company will obligate itself that this exclusive right to manufacture will not be used as a means of increasing the price on any brands considered, and in fact, of great value, because of an established reputation, but that their prices will be governed strictly by the quality of the plates furnished, and relative to the selling price of other plates it may manufacture under its own particular brands.

"THIRD: The obligation of the company to continue the manufacture of any brand shall be made contingent on buyer's restricting all purchases of tin and terne plates to its products, and the company shall have the right to discontinue the manufacture of such brands on evidence satisfactory to its Sales Department that buyer has not so restricted purchases. This condition, however, is not intended to remove the restriction as to the exclusive use of any brand for other concerns than its original owner."

By Mr. Dickinson:

Q. State whether or not you followed up this matter and whether or not you entered into a contract with the American Tin Plate Company, or a succession of contracts, under which you assigned to them your tin plate brands.

A. We entered into a succession of contracts. We assigned a number of brands. You have the papers there.

(The witness was handed a paper, hereinafter introduced in evidence and marked "Government's Exhibit No. 77," which he examined and passed back to counsel for the Government.)

Mr. Lindabury: Judge, are they on the forms you introduced as exhibits yesterday?

Mr. Dickinson: These were earlier than that.

Mr. Lindabury: I was hoping we might shorten it——

Mr. Dickinson: The form is substantially the same, however.

Mr. Lindabury: Is it worth while to put in duplicates, then?

Mr. Dickinson: I am not intending to put all these in evidence, provided we can enter a stipulation on the record. That is to say, I will probably put in one, and then you can examine these, and if they are the same, we can agree to that on the record. Suppose you look at these, and then I will introduce one form, and then I will state that the others are similar, giving the dates.

Mr. Lindabury: I would not have time now to compare this with the forms introduced as exhibits yesterday. What I meant to inquire was whether the forms were ever changed.

Mr. Dickinson: These were forms they used (indicating); there is some little difference, as you will see.

Mr. Lindabury: I should think we might, by some arrangement, get in all the different forms, if they changed them from time to time, and then let the dates be given, or let the witness testify——

Mr. Dickinson: I do not care about putting all these in the record, because they are duplicates of each other.

Mr. Lindabury: I understand that you would not want to do that.

MR. DICKINSON: I will read one and state that the others are in substance the same, giving their dates.

MR. LINDABURY: Yes, I think that would be best.

MR. DICKINSON: I now offer in evidence this agreement, which has been examined by the witness.

(The paper so identified was offered in evidence and marked "Government Exhibit No. 77, May 14, 1912.")

MR. DICKINSON: I will now read this agreement dated the 22nd day of March, A. D., 1899, between the American Tin Plate Company and Gummy, McFarland & Company, of Philadelphia.

(Mr. Dickinson read aloud the paper referred to, the same being marked "Government Exhibit No. 77, May 14, 1912," and to be found in the book of exhibits.)

MR. LINDABURY: I understand that all these exhibits are printed in a separate book of exhibits. If that is so, is it necessary for the stenographer to take down the exhibits as they are read, and to have them appear in full in the body of the record? In other words, is it necessary to have the exhibits printed twice—because we will have record enough without having them in twice, it seems to me.

MR. DICKINSON: I think that is a good suggestion, and so the stenographer need not take down the exhibits as they are read.

By MR. DICKINSON:

Q. Did you or did you not enter into that contract with the American Tin Plate Company?

A. Yes, sir.

Q. Under which, as a condition, to their making brands you had assigned to them your private brands?

A. Yes.

Q. And if you bought from anyone else your brands would be forfeited?

MR. LINDABURY: I object. The contract speaks for itself.

MR. DICKINSON: I want his understanding of it.

A. We understood the contract——

By Mr. Dickinson:

Q. You understood it that way?

A. Yes, sir.

Q. State whether or not at that time there was any other maker of tin plate in this country besides the American Tin Plate Company by whom you could have gotten your brands made.

A. I think there was not.

Q. To the best of your knowledge of the situation, there was not?

A. I think there was not, to the best of my knowledge.

Q. Can you name any other maker of tin plate at that time in the United from whom you could have gotten your tin plate made with those brands except the American Tin Plate Company?

A. I do not think I could mention a maker who made the tin all the way from the raw material, who could satisfactorily produce the plates.

Q. State, Mr. McFarland, whether or not under the conditions then prevailing, and the companies that had gone into the Tin Plate Company, it was necessary, in order for you to get your brands made, to have that company make them?

A. When the Tin Plate Company came into existence, they took over the mills that made some of our brands, and for a time they made them, as we had contracts with the mills previously.

Q. But after those contracts expired——

A. After that, when that time arrived, we were obliged to have the American Tin Plate Company make them for us.

Q. And obliged to assign your brands to them, in order to get them made?

A. Yes.

Q. And if you bought from anybody else, you would have forfeited your brands?

Mr. Lindabury: I object. That has been asked four or five times.

Mr. Dickinson: It is a pretty good thing to have brought out clearly. I want to have it impressed.

MR. LINDABURY: We will agree to it beforehand. We want that evidence in as much as you do.

MR. DICKINSON: You did not tell me beforehand.

MR. LINDABURY: We have not time to take it five times over; that is all.

By MR. DICKINSON:

Q. You made contracts covering other brands, did you, before those mentioned here?

A. What do you mean—besides those, or this one? Do you mean all?

Q. The others?

A. Oh, others. We assigned other brands.

Q. And they were like this?

A. In substance.

Q. The substance was the same?

A. Yes.

Q. How long did you continue to make these contracts?

A. You have them all there, all the assignments we made.

MR. DICKINSON: We will just put the dates in. The latest here seems to be—

MR. LINDABURY: Will you not take them up chronologically if you are going to put them in?

MR. DICKINSON: I am going to say that there are a number, continuing down to July 2, 1907.

MR. LINDABURY: If you are going to name them all—

MR. DICKINSON: They were continued from time to time down to 1907.

By MR. DICKINSON:

Q. Is that the fact?

A. Yes, sir.

Q. State what arrangement, if any, the American Tin Plate Company had with its customers whereby a rebate or credit was given upon the understanding that the jobber purchased 85 per cent. of all of his purchases, his tin plate, from that company.

A. There was part of the purchase price held back.

Q. Was there or not an arrangement of that sort made with the jobbers?

A. Yes, sir.

Q. That is to say that considering their purchases from all makers, those from the Tin Plate Company and those from manufacturers outside of the Tin Plate Company, if they purchased 85 per cent. or more from the Tin Plate Company, then they were to get a rebate or a credit?

A. There was a part of the purchase price held back. At first the understanding was that all supplies were to be bought from the company. Later on it was reduced to 85 per cent.

Q. When did that arrangement begin, whereby you had to purchase all from them and none from outsiders in order to get this credit or reduction?

A. I could not state just the date.

Q. Well, about the date?

A. I think about 1902 was the start.

Q. About 1902?

A. The end of the year 1902.

Q. For a while it continued, so that all the purchases had to be from them, did it?

A. That was for a time.

Q. Then there was a reduction in that percentage?

A. A reduction, to 90 per cent, I think, I am not certain.

Q. And then to 85 per cent?

A. To 85 per cent.

Q. This percentage or credit was not conditioned upon the volume of your business, but the comparative amount that you bought as between them and others?

A. As to whether we bought 85 per cent. of our total purchases from the company.

Q. See whether you identify these forms. (Handing papers to witness.) I do not mean those particular contracts, but the forms, as being substantially the kind you used?

A. I was not familiar with this one, the 90 per cent.

Q. Pass that back, then. How about the other?

A. The 85, and the total amount I was familiar with.

MR. LINDABURY: Judge, there is not any dispute between

us about these things. We would save a lot of time if you want us to stipulate as to them.

MR. DICKINSON: Mr. Lindabury, you understand I cannot always tell what there is a dispute about. We have never gotten together, you see, to find out whether there was a dispute, or whether there was not, and your saying there is not a dispute does not make a stipulation or agreement. It is not binding upon you and is not binding upon your clients.

MR. LINDABURY: No; but I say if you choose we will admit these things. I do not make objection.

MR. DICKINSON: I will have these marked, and offer them in evidence as having been agreed by counsel to be copies of such agreements as were in use at that time.

MR. REED: Not agreements, Judge Dickinson.

MR. DICKINSON: Forms, then. What would you call them if you would not call them agreements?

MR. REED: Call it a conditional credit.

MR. DICKINSON: A form of conditional credit.

MR. REED: It does not bind the buyer at all.

MR. DICKINSON: I understand. Form of conditional credit that was sent to the buyers and in use at that time.

MR. LINDABURY: Judge, I did not see the one that you first had. Was it one filled up, or was it a mere form?

MR. DICKINSON: These are filled up, but the party is not here, and if I get them in now it will just save bringing him here.

MR. LINDABURY: I wondered if these blanks would not answer the purpose.

MR. CORNEAU: The blanks are of later date, Mr. Lindabury and therefore slightly different in form.

MR. DICKINSON: These blanks are American Sheet & Tin Plate; those are American Tin Plate; they are older.

MR. LINDABURY: I have one, Judge, from the American Tin Plate Company, and one from the American Sheet & Tin Plate Company. Those are what you are offering?

MR. DICKINSON: Yes, sir.

MR. LINDABURY: Let us see the others.

MR. DICKINSON: This is American Sheet & Tin Plate.

(The paper so identified, being conditional credit form, American Tin Plate Company, No. 324, dated January 19th, 1903, was offered in evidence, and marked "Government Exhibit No. 78, May 14, 1912.")

(The paper so identified, being conditional credit form, American Sheet & Tin Plate Company, No. 5532, dated June 18, 1904, was offered in evidence, and marked "Government Exhibit 79, May 14, 1912.")

(Credit memorandum, American Sheet & Tin Plate Company, No. J-18919, dated April 15, 1908, was offered in evidence and marked "Government Exhibit No. 80, May 14, 1912.")

By Mr. Dickinson:

Q. Mr. McFarland, state whether or not there was a similar arrangement as to sheet steel.

A. There was.

Q. You were in that business, too?

A. Yes, sir.

Q. Were contracts similar to those you have described in respect to tin plate made for these credit allowances in respect to sheet steel?

A. There were. You have one in your hand, I think; at least one of those.

Q. Well, it is not necessary to put it in.

Mr. Lindabury: He says it is of a similar character.

Mr. Dickinson: I would like to note of record that it is agreed it is not necessary to put the original in.

By Mr. Reed:

Q. What percentage was allowed?

A. The same percentage.

Mr. Lindabury: The amount of credit discount has not been mentioned yet, I think.

Mr. Dickinson: Oh, yes.

Mr. Reed: It has been shown in these papers put in evidence.

Mr. Lindabury: But has not been read by Judge Dickinson.

MR. DICKINSON: The agreements show it.

MR. LINDABURY: I have learned, Judge, to think that what you do not read we possibly ought to.

MR. DICKINSON: I do not know what you mean by that, Mr. Lindabury.

MR. LINDABURY: I mean, you are bringing out your side of the case, and we have to look out for ours. That does not mean that you are not acting fairly, of course.

MR. DICKINSON: I would like to have that explanation.

MR. LINDABURY: You are not expected to try our case.

MR. DICKINSON: No, and I am not, in reading a paper, failing to read anything that I think fairly bears upon it, either.

Now, the question is whether or not we shall agree, in not putting in these papers, whether or not there were similar contracts with regard to sheet steel as with regard to tin plate.

MR. REED: Not contracts, Judge; similar allowances.

MR. DICKINSON: Similar allowances.

MR. LINDABURY: Under a similar system.

MR. DICKINSON: Under a similar system. Very well. You may take the witness.

CROSS-EXAMINATION.

By MR. REED:

Q. Mr. McFarland, the manufacturers of tin plate and terne plate had their own brands, had they not, when this system was established?

A. A few of them.

Q. Did the American Tin Plate Company have its own brands?

A. I do not know whether it had at that time.

Q. You never bought any of them, did you?

A. Yes, sir.

Q. Of its own brand?

A. During part of this period. Do you refer to a very early date, when it was first formed?

Q. I refer to the year 1900, or at the time this assignment was first made.

A. Well, I am not able to state that definitely.

Q. Most of the time between 1899 and 1907 the American Tin Plate Company and the American Sheet & Tin Plate Company had their own brands for terne plate and tin plate, had they not?

A. Most of the time during that period, yes.

Q. When you asked the manufacturers to put your brand on tin plate or terne plate, as manufactured for you, there was on that plate nothing to show who actually made it, was there.

A. No.

Q. It bore your brand and your name?

A. It did.

Q. But not the name or the brand of the manufacturer?

A. You are correct; it did not.

Q. Then, any good will that was created by the success of those brands would be in the brand itself, would it not, and not in the name of the manufacturer?

A. It would be in the brand itself, and in the jobber who sold it.

Q. So that without these assignments of brands the American Sheet & Tin Plate Company would have been simply building up your good will, building up the value of your brand, without obtaining any good will of its own, or in its own name, by manufacturing under this system for you?

A. If for any reason the brand became the property of the company they would obtain, possibly, some value.

Q. But I ask you if they manufactured your brands for you without requiring an assignment?

A. Oh, I did not catch that.

Q. The consequent good will that would follow would all be in your name and in your brand, would it not?

A. It would.

Q. And these brands of plate that were made for you were sold in the markets for the same purpose and to the same kind of customers as the similar plate that bore the private brand of the American Sheet & Tin Plate Company; is that correct?

A. The terne plate brands, yes, for the same purpose as the terne plate brands of the company.

Q. But your tin plate brands?

A. We did not have any tin plate brands; no, sir.

Q. Then all these assignments covered only brands on terne plate?

A. Terne plate was for roofing purposes.

Q. Terne plate, as I understand it, is a steel plate coated with a mixture of lead and tin.

A. I so understand it.

Q. Used for roofing purposes?

A. Roofing purposes.

Q. Tin plate is a plate covered with coats of tin, used principally for canning purposes?

A. Tinware, and in some cases for roofing.

Q. Do you know what the word terne means?

A. It means the mixture of the lead coating.

MR. LINDABURY: It is spelled terne, is it not?

THE WITNESS: Yes, sir.

By MR. REED:

Q. These assignments of brands were made by you only of brands of terne plate, if I correctly understand it?

A. Yes, sir.

Q. They did not cover ony of your tin plate brands?

A. They did not.

Q. Are you sufficiently familiar with the business to tell us about what percentage of the American Tin Plate Company's business was terne plate in the year 1900?

A. No, sir; I could not answer that question.

Q. It was a very small percentage, was it not?

A. No; I do not think it was a very small percentage.

Q. Not much more than ten per cent. of its business, was it?

A. I could not answer that.

Q. What is your best judgment?

A. I should think it was more than ten per cent.

Q. How much more would you think it was?

A. I do not think I am competent to decide that.

Q. These assignments of brands were all accompanied by the agreement of the Tin Plate Company not to raise the

prices of those branded products beyond the current market price, were they not?

A. That was the understanding in the contract.

Q. Was that understanding lived up to after the assignments were made?

A. That is a difficult question to answer.

Q. Were the prices of your branded products put up above the current market prices, whatever they were?

A. Well, our private brands were heavily coated plates, and when the ordinary plate was advanced, these were advanced considerably more, so it is a little difficult to get at just whether they were advanced as to the market cost.

Q. They were advanced at the same time, were they?

A. Not always.

Q. About the same time?

A. Generally about the same time.

Q. The coating on your plates was thicker than that of the ordinary plate, was it not?

A. Than the ordinary plate; yes, sir.

Q. It took more tin, did it not?

A. It took more lead and tin combined.

Q. It made a heavier mixture?

A. Some of the plates carried more coating than others.

Q. And can you tell us whether those increases in the prices were or were not preceded by a rise in the price of tin and lead in the open market?

A. That would be a pretty difficult question for me to answer.

Q. Tin went up very much in price in 1899 and 1900, did it not?

A. It went up and it went down; it varied.

By Mr. Lindabury:

Q. You do not mean it went down in that year?

A. Down at times and up at times.

Q. I mean in 1899?

A. There might have been a very little advance, but there is always a variation in tin; it a very uncertain quantity.

By Mr. Reed:

Q. It never has been as low since 1899 as it was in that year, has it?

A. I could not answer; I have not been closely enough in touch with the tin market.

Q. Did you ever hear of the Moon Flower brand?

A. Yes, sir.

Q. That was terne plate sold in competition with your brands, was it not?

A. Yes, sir.

Q. And it belonged to the American Tin Plate Company, did it not?

A. I think it did.

Q. And the same for the Star Flower brand?

A. I think it did, the same.

Q. It belonged to the American Tin Plate Company and was sold in competition with yours?

A. My impression is that it did.

Q. The same of the Jonquil brand?

A. I do not know the brand.

Q. Do you not know that brand?

A. I do not.

Q. Do you know the Crocus Brand?

A. I do not.

Q. Do you know of the Wild Flower Brand?

A. I do not.

Q. These assignments were made by you as late as October, 1907, were they not?

A. I cannot answer as to that date without looking at the assignment.

Q. Will you look at the assignment?

A. I do not carry those dates in mind.

By Mr. Dickinson:

Q. 1907 was the last one we noted.

A. There was one in 1907, I think.

By Mr. Reed:

Q. Here is one in July, 1907.

A. If that is 1907, it would be the last one. (Examining papers.) July 3, 1907.

Q. In October, 1907, Mr. McFarland, there was a great deal of competition in the manufacture of terne plate, was there not?

A. I think there was.

Q. At that time the American Sheet & Tin Plate Company did not manufacture more than 60 per cent of the terne plate of the United States, did it?

A. I could not answer that question.

Q. It did not manufacture more than 60 per cent of the tin plate and terne plate of the United States, did it?

A. I could not answer that question.

Q. There was very strong, general, aggressive competition?

A. There was.

Q. In 1899, when your first assignment was made, did you know the Whittaker plant to be in operation in Wheeling?

A. I could not answer.

Q. There was such a plant in Wheeling, was there?

A. I have heard of the name. I think they were in operation.

Q. Do you know whether or not they were manufacturing terne plate at that time?

A. It is my impression that they were not selling it at that time. I am not sure about that.

Q. You are not sure about that?

A. I am not sure of that point.

Q. Then your statement that the American Tin Plate Company was the only producer of tin plate at that time in the United States is to be qualified with the possible exception of the Whittaker Company?

A. You asked me to state positively that they were not. If they did it was in very small quantity.

Q. But you do not mean to be understood to say positively that the American Company was the only producer?

A. I could almost say positively.

Q. You could almost say so?

A. Yes.

Q. Then can you tell us that the Whittaker Company did not make it?

A. I could not tell you that.

MR. DICKINSON: Mr. Reed, of what year are you speaking?

MR. REED: 1899.

MR. DICKINSON: This first contract was in 1900.

By MR. REED:

Q. Apply the same to the year 1900, then, Mr. McFarland.

A. The conditions were about the same.

Q. Do you know that the Whittaker Company was not manufacturing terne plate in 1900?

A. I have only heard of that company, and I am not familiar with just what they were doing. Therefore, what I have stated is based on having no knowledge of the Whittaker Company.

Q. In your direct examination you stated that the American Tin Plate Company at that time was the only manufacturer which could produce satisfactory terne plate. Were there other manufacturers who were selling terne plate that was not satisfactory to you?

A. There was a dipper whom I had in mind at that time who did not manufacture from the steel all the way up. He would not be a satisfactory man to buy from, because you could not buy at a proper price. They really were not manufacturers. They were only partial manufacturers; they were dippers.

Q. When you speak of a manufacturer you mean a man who manufacturers plates from tin bars?

A. I mean the man who manufactures the black plates.

By MR. LINDABURY:

Q. All the way from the bottom up?

A. Yes. However, he might not go all the way.

By Mr. Reed:

Q. Is black plate made from tin bars?

A. Certainly. They term tin plate bars steel bars.

Q. Then it was possible to buy terne plate and tin plate at that time from a number of dippers?

A. Not commercially so; no.

Q. Not at the prices you would have been required to pay?

A. No, sir; not, and stay in business.

Q. Do you know whether this practice of the assignment of brands originated with the jobbers or with the American Tin Plate Company? That is to say, whether the Tin Plate Company wanted to put it in force or if the jobbers asked to have it put in force.

A. It is my impression that the American Tin Plate Company would not make your brand unless you assigned it to them.

Q. They were perfectly willing to sell you their own brand without requiring any contract?

A. Oh, they would have sold you their own brands.

Q. They were not willing to manufacture for you in your name without being protected by this assignment of brand?

A. They were not.

Q. In 1909, the production of the American Sheet & Tin Plate Company was somewhat interfered with by labor troubles, was it not?

A. What year did you say?

Q. 1909.

A. I think that was the year.

Q. In that year did you get all of your terne plate from the American Sheet & Tin Plate Company?

A. There were times when we could not get it.

Q. Did you then go out and purchase from these competitors?

A. We were obliged to—in what year was that?

Q. 1909.

A. Yes, I think so; yes.

By Mr. Lindabury:

Q. Three years ago?

A. Yes.

By Mr. Reed:

Q. These assignments were not revoked in any way to prevent your purchasing from these competitors, were they?

A. Our understanding was that in case they were not able to supply us, that we could get our supply from outside.

Q. That was the understanding: was that understanding lived up to?

Mr. Dickinson: Does not the contract itself provide that?

The Witness: I think the contract so states.

By Mr. Reed:

Q. There was no objection made?

A. There was no objection. We were obliged to buy some outside.

Q. Before I leave that subject, how many brands of terne plate have you?

A. I could not give you that.

Q. There were twenty-one different brands mentioned in these assignments. Had you that many?

A. We had more. We had some brands we never assigned.

Q. Coming now to this system of conditional credits, you were allowed credits of 5 cents per box in most cases, and of 10 cents per box in some cases, provided you bought 85 per cent. of your purchases of tin plate and terne plate from the American Company. Have I stated it correctly?

A. During the latter part of the arrangement; yes, you have stated it correctly.

Q. That was in force from 1904 until the practice was abandoned?

A. I am not sure of the year it was changed to the 85 per cent.

Q. This whole system of conditional credits stopped in the year 1908?

A. I mean when it first started it was 100 per cent.

Q. Then it was reduced to 90 per cent.?

A. Yes.

Q. Then it was reduced to 85 per cent. Is that correct?

A. It was reduced to 90. I do not know whether that covered the tin plate and the sheet iron productions or not.

Q. We are talking about tin plate now.

A. That is why I am not sure. My recollection did not make it clear whether the 90 per cent. was in vogue in both cases.

Q. Then for several years the figure was 85 per cent.?

A. Yes.

Q. And the whole system of conditional credits was abandoned or discontinued in 1908, was it not?

A. In 1908 the last purchases were made under that condition.

Q. The allowances were 5 cents per box in most cases, and 10 cents per box in some cases, were they not?

A. With us I think it was 10 cents a box in most cases.

Q. What percentage on the price of a box of tin plate would that amount to?

A. What percentage?

Q. Yes.

A. That would depend upon what the tin was selling at at that time.

Q. Tin plate, according to the figures already put in evidence by the Government, has sold during this time, from 1899 to 1908, at from $3.30 a box to $4.50 a box?

A. That is a matter of calculation. Whenever the prices would vary this percentage would vary.

Q. Perhaps you are quicker in mathematics, and will make the calculation?

A. Anybody can figure that.

Q. Will you do it, please?

A. What would be the price on which I am to figure it?

Q. Take the low price of $3.30 and the high price of $4.50.

MR. LINDABURY: Take one at a time.

A. What was that question as to the $3.30? What basis was that, and what weight?

By MR. REED:

Q. Ten cents on $3.30 would be three per cent.?

A. It would be.

Q. And 5 cents on $4.50 is one per cent.?

A. About that.

Q. So that the range of discounts given to those buyers who bought 85 per cent. of their requirements from the American Tin Plate Company ranged from one to three per cent.?

A. That is about it.

Q. In the latter part of the period during which this system of conditional credits was applied there was, you have told us, strong competition from these new competitors. I am right in that, am I?

A. The Tin Plate Company could state that better than I could.

Q. You told Judge Dickinson that you were familiar with conditions in the tin plate industry during all this time.

A. What do you mean by "close competition" or "strong competition"? Do you mean that they were getting business?

Q. I mean that there were competitors who were successful in getting business?

A. There were.

Q. That is what you understand by competition, is it not?

A. Yes.

Q. Did this system of conditional credits operate, as far as you could tell, to prevent the competitors from getting business, or did the competitors meet the reduced price?

A. I think it prevented competitors from getting business.

Q. Did the competitors meet the reduced price, the net price?

A. They may have in some cases.

Q. Did they, with you?

A. I think they did in some cases.

Q. It meant a discount of from one to three per cent.?

A. In some cases we got lower prices from the competitors.

Q. Were the competitors generally willing to make that discount in order to get the business?

A. I think not.

Q. You think not?

A. Not generally; no, sir.

Q. Then the American Company got it by scaling its prices down as much as three per cent. in most cases, did it?

A. Yes; they held the business.

MR. REED: That is all.

RE-DIRECT EXAMINATION.

By MR. DICKINSON:

Q. It was some time, was it not, before these independents got started in full swing?

A. Oh, it took some time, sir.

Q. State whether or not in the meantime the operation of this plan had not succeeded in tying a large part of the trade to the American Tin Plate Company?

A. That would be a hard question for me to answer.

Q. You were asked, Mr. McFarland, about their making your brands, and also having brands of their own, and about the reputation of your brands accruing to you. If you had bought from any other maker, and forfeited your brands, then where would the reputation have gone?

MR. LINDABURY: I object to that as calling for speculation.

By MR. DICKINSON:

Q. I will ask you if you know. Do you not know where it would have gone?

A. It would have gone to the Tin Plate Company.

Q. Along with your brands, would it not?

A. Yes, sir.

Q. You were asked about dippers. Had these dippers been supplying jobbers like you?

A. I think not.

Q. You had not been getting your tin plate from them?

A. Never.

Q. And when the American Tin Plate Company was formed I understood you to say, as far as you know, they were the only people who could supply you?

A. When they were formed, we had some contracts with mills which were taken over.

Q. And for some time after that—?

A. (Interrupting). They supplied our brands through the contracts already in existence.

Q. How long before the independents became active and were real competitors of the American Tin Plate Company? How long was that after the formation of the company?

A. I do not think I could answer that question.

Q. Suppose after you assigned your brands you had bought from some other maker except the American Tin Plate Company, and your brands had been forfeited; what effect would that have had upon your business?

MR. LINDABURY: I object to that as calling for a speculation.

MR. DICKINSON: I am calling for his opinion as an expert in that business.

MR. LINDABURY: It is not an expert question——

MR. DICKINSON: I thought it was a pretty good question.

MR. LINDABURY: It is a question, I mean, not admitting of expert testimony.

MR. DICKINSON: I think there is expertism in various classes of business, and in trade as well as anything else.

By MR. DICKINSON:

Q. State what it would be.

A. We would have lost trade built up through that brand.

MR. LINDABURY: That is something rather obvious.

By MR. DICKINSON:

Q. You were asked whether or not at the time you bought outside, when they could not supply you, whether this contract insisted on a forfeiture, or, in substance that the contract only provided for forfeiture in case they could not supply you.

MR. LINDABURY: Objected to. It speaks for itself.

By MR. DICKINSON:

Q. That was your understanding?

A. I did not quite catch that.

Q. Under your agreement with them, did they have any right at any time when you bought outside to forfeit your brand?

MR. LINDABURY: Objected to. The contract speaks for itself.

A. I think not.

By MR. DICKINSON:

Q. Then there was no act of grace on their part, so far as that was concerned?

A. We lived up to the contract.

RECROSS-EXAMINATION.

By MR. REED:

Q. Did you ever hear of the firm of N. & G. Taylor, of Philadelphia?

A. Yes.

Q. They were manufacturers of high grade roofing plates?

A. They were jobbers.

Q. In 1899 and 1900?

A. So-called manufacturers. They were jobbers at that time.

Q. Did you try to get your requirements from them?

A. We did not.

Q. Did you ask for any offers or prices from them?

A. We did not.

Q. Was there any secret made of this system of conditional credits, or was it generally known throughout the trade?

A. It became known through the trade.

Q. Everybody in the business knew it, did they not?

A. I do not know that everybody did. We did not give that information to anybody else.

Q. You found that competitors of the Tin Plate Company knew that, did you not?

A. They soon found out.

MR. REED: That is all.

MR. DICKINSON: That is all.

These are the forms you furnished us. We will put them in as evidence at this time. I took the copies out; there is no use in putting them in.

(The papers referred to were marked "Government Exhibits Nos. 81 to 85, May 14, 1912," and will be found in the book of exhibits.)

HOWARD M. DAVIS,

called as a witness in behalf of the United States, being first duly sworn, testified as follows:

By Mr. Dickinson:

Q. Where do you live?

A. Philadelphia.

Q. How old are you, Mr. Davis?

A. Forty-nine.

Q. In what business are you now engaged?

A. I am sales manager of the Philadelphia District for the Phillips Sheet & Tin Plate Company.

Q. What does the Phillips Sheet & Tin Plate Company do?

A. It manufactures tin plate, terne plate, and black plate.

Q. How long has that concern been in business?

A. About seven years.

Q. How long have you been with that concern?

A. Three years.

Q. Prior to your connection with that concern in what were you engaged?

A. I was Philadelphia sales manager for the American Sheet & Tin Plate Company.

Q. How long were you sales manager for that company?

A. I think three years.

Q. Prior to that how were you engaged?

A. I was the Assistant General Manager of Sales for the same company.

Q. And prior to that what were you?

A. Prior to that I was what they called special agent; that is, claim agent for the American Sheet & Tin Plate Company.

Q. State whether or not, up to the time you left, about three years ago, you had been with the American Tin Plate Company from the time of its formation, in the various capacities mentioned?

A. Yes.

Q. Before you were with the American Tin Plate Company were you connected with any tin plate company, and if so what?

A. I was connected originally with the old American Tin Plate Company of Ellwood, Indiana.

Q. And that company went into the American Tin Plate Company, did it, at its organization?

A. Yes.

Q. How long had you been with the American Tin Plate Company of Ellwood?

A. About two or three years.

Q. You have stated that you became general manager of sales after the formation of the American Tin Plate Company of New Jersey?

A. No, sir.

Q. Assistant General Manager of Sales?

A. Yes, sir.

Q. And continued in that position until February, 1902?

A. No.

Q. Until when?

A. I continued in that position until, I think it was, 1906; and then I was transferred to Philadelphia.

Q. Who were the active parties in originating the American Tin Plate Company? Who were the men who were instrumental in bringing it together?

A. The American Tin Plate Company of New Jersey or the Ellwood Company.

Q. The Company of New Jersey?

A. According to my information—

MR. REED: One minute.

By MR. DICKINSON:

Q. I will withdraw that question and ask this. Did you, at or about the time of the formation of the American Tin Plate Company, come in contact with and have anything to do with those or any of those who were active in promoting the formation of that company?

A. If I do not know who were active in promoting the company I cannot answer the question.

Q. Do you know who were active?

A. I think I know.

Q. I will ask you later the grounds of your information. Just state whom you know, if you do, and why you state, if you know it?

A. There was D. G. Reid; Judge William H. Moore; F. S. Wheeler; James H. Moore (I think his name is James H. Moore; I know he is Judge Moore's brother); W. B. Leeds.

Q. During that time did you talk with any of these men about the formation of it, and if so, with whom?

A. No, sir.

Q. On what do you base your answer?

MR. LINDABURY: That he did not talk with them?

MR. DICKINSON: No; I mean on what does he base his answer that his information is that these men were instrumental and active in the formation of the Company?

THE WITNESS: Observation.

By MR. DICKINSON:

Q. On what kind of observation?

A. In addition to observation, it was generally understood that this consolidation was being brought about. And upon newspaper reports.

Q. Were you associated with Mr. Reid at all?

A. Yes, sir.

Q. With what company was he connected?

A. The American Tin Plate Company of Ellwood.

Q. You were connected with that company?

A. Yes, sir.

Q. Were you thrown with him at any time?

A. Yes, sir.

Q. Did you or did you not hear him talk about it?

A. He did not confide in me that he was organizing the company, but in a general way I understood that they were organizing the company.

Q. You had no conversation with any of these men about it?

A. I do not recall now, I can tell you now, that one of the officers of the American Tin Plate Company of Ellwood, Indiana told me.

MR. LINDABURY: Objected to as hearsay.

By MR. DICKINSON:

Q. Who was he?

A. John F. Hazen.

Q. Was he engaged in the formation of it?

A. I could not tell you.

MR. DICKINSON: I will not pursue that any further, then, because it appears to be entirely hearsay.

By MR. DICKINSON:

Q. In your connection with the Ellwood Company, and in pursuance of the duties which you had in connection with it, state whether or not you had any knowledge of the tin plate business at that time as it was carried on in the United States and of those manufacturers who were making and selling in the trade?

A. Yes; I did have knowledge.

Q. Do you know the companies that went into that organization?

A. I could not name them all now.

Q. Did you know the Aetna Standard Iron & Steel Company, of Bridgeport, Ohio?

A. Yes, sir.

Q. What were they making?

A. That was a consolidated company; they were making tin plates and sheets.

Q. What was your company, the American Sheet & Tin Plate Company, of Ellwood, making?

A. Tin plate and black plate.

Q. State whether or not these two companies were in competition in interstate commerce, so far as tin plate is concerned?

A. They were.

Q. Take the Atlanta Steel & Tin Plate Company, of Atlanta, Indiana. What were they making?

A. Tin plate.

Q. All these questions relate to the time of the formation of the American Tin Plate Company. State whether or not they were in competition with each other in interstate commerce.

A. It is my impression that the Atlanta concern had failed before the consolidation.

Q. Take the Beaver Tin Plate Company, of Lisbon, Ohio. What were they making?

A. Tin plate.

Q. Were they or not in competition with the Aetna Company and the American Tin Plate Company?

A. They were.

MR. LINDABURY: Did you not prove all this by Mr. Reid?

MR. DICKINSON: I want a better witness than Mr. Reid was, in my judgment. But we might save time, Mr. Lindabury, if you are willing to stipulate upon the record that these several companies stated here were active competitors at the time of the formation of the American Tin Plate Company, in interstate commerce, and outside of the State where their manufactories were located, were competitors of each other in the various products that they made, and that among the things they made was tin plate.

MR. LINDABURY: We could not do that as to all of them.

MR. DICKINSON: What exceptions would you want to make?

MR. LINDABURY: I could not tell offhand.

MR. DICKINSON: I will not pursue this subject any further if you will give me a memorandum later in regard to that.

MR. LINDABURY: If this witness can give it, it is perhaps just as well to go ahead with him.

MR. DICKINSON: Yes, we can go on with this witness.

By MR. DICKINSON:

Q. Take the Blairsville Rolling Mill and tin plate mill, Blairsville, Pennsylvania.

A. I do not know them.

Q. Take the Britton Rolling Mill Company, of Cleveland.

A. I do not know that.

Q. Take the Canonsburg Iron & Steel Company, of Canonsburg, Pennsylvania.

A. I do not think they made tin plate then.

Q. Take the Cincinnati Rolling Mill and Tin Plate Company of Cincinnati, Ohio.

A. I do not think they made tin plate.

Q. The Crescent Sheet & Tin Plate Company, of Cleveland.

A. They made tin plate.

Q. State whether or not they were competitors of the Aetna Company and of the American Tin Plate Company.

A. They were.

Q. And the other companies that you have mentioned, that you knew about making tin plate at that time; were they competitors in interstate trade?

A. They were.

Q. Look over this list, at page 11 of the petition, and state which of those companies you know to have been competitors with the others there in respect to tin plate or black plate or terne plate.

A. (Looking at list.) The Falcon Tin Plate & Sheet Company, of Niles, Ohio.

MR. LINDABURY: Which did you name first—the Falcon Company?

THE WITNESS: Yes. I commenced where Judge Dickinson left off. The last company he asked me about was the Crescent. The Falcon Tin Plate & Sheet Company, of Niles, Ohio; The Great Western Tin Plate Company, of Joliet; the Humbert Tin Plate Company, of Connellsville, Pennsylvania; the Irondale Steel & Iron Company, Middletown, Indiana; the LaBelle Iron Works, of Wheeling, West Virginia; the Laughlin Nail Company, of Martins Ferry, Ohio; Marshall Brothers & Company, Philadelphia, Pennsylvania; Monongahela Tin Plate Company, of Pittsburg, Pennsylvania; Morewood Company, Gas City, Indiana; Morton Tin Plate Company, Cambridge, Ohio; National Tin Plate Company, Monessen, Pennsylvania, and Anderson, Indiana; New Castle Sheet & Tin Plate Company, of New Castle, Pennsylvania; Pittsburg Tin Plate Works, New Kensington, Pennsylvania; Star Tin Plate Company, Pittsburg, Pennsylvania; United States

Iron & Tin Plate Company. It states here McKeesport, Pennsylvania. That should be Demler, Pennsylvania. The next is Wallace, Banfield & Company, Irondale, Ohio; Washington Sheet & Tin Plate Company——

Q. That should be Washington Steel & Tin Plate Mills, Washington, Pennsylvania?

A. I suppose that was the company then.

By Mr. Dickinson:

Q. That is all?

A. Yes.

Q. Of those that you named, you know what their products were, do you?

A. Principally tin plate.

Q. And that these were in competition with each other in interstate business at the time of the formation of the American Tin Plate Company?

A. Yes, sir.

Q. At the time of the formation of that company what proportion of the total output of tin plate in this country was controlled by them?

A. What proportion was controlled by the American Tin Plate Company?

Q. Yes; what proportion was controlled by the American Tin Plate Company?

A. My recollection is that it was about 95 per cent.

Q. Did you know anything of a company called the Wheeling Corrugating Company of Wheeling, West Virginia?

A. Yes, sir.

Q. Did that company come in under this combination?

A. No, sir.

Q. What was that company making?

A. I think they were dipping sheets that were made by the Whittaker Iron Company.

Q. Were they making tin plates for sale to the trade generally, to others?

A. Yes, sir.

Q. Tin plate?

A. Yes, sir.

Q. What kind of a concern was it? Was it a large or a small concern?

A. It was rather small. We considered it a small concern.

Q. Do you know the size of it, about?

A. At that time?

Q. Yes.

A. I think they were only dippers at that time.

Q. That is what I mean.

A. The Wheeling Corrugating Company.

Q. They were dippers at that time?

A. That is my recollection.

Q. Were they, at that time, making tin plates; rolling the plate?

A. The Whittaker Iron Company. I think, was rolling the plate for the Wheeling Corrugating Company. They were allied interests, and the Wheeling Corrugating Company were consuming that made by the Whittaker Company.

Q. Was the Whittaker Iron Company making tin plate which they were selling generally in the trade outside of the Wheeling Corrugating Company?

A. Not that I know of.

Q. If they were selling any, was it to a large or a small extent?

MR. LINDABURY: I object. If he does not know, how can he answer?

By MR. DICKINSON:

Q. Did you know them as competitors?

A. No, sir; I did not recognize them as competitors. They were more what you would call manufacturing jobbers.

Q. How about Lalance and Grosjean, of Harrisburg, and the St. Louis Stamping Company, of St. Louis?

A. They manufactured.

Q. What did they manufacture?

A. They manufactured black plate and tin plate.

Q. Who consumed their product?

A. They did.

Q. They consumed their own product?

A. Yes.

Q. Were they competitors of yours in the trade?

A. No, sir.

Q. What did they make? What did they put on the market?

A. They put on the market tinware; enamelled ware.

Q. Which they made out of the tin plate that they manufactured?

A. Yes, sir.

Q. How long after the formation of the American Tin Plate Company was it before the system of brand assignments began?

A. About three months.

Q. What percentage of the brands in the markets were acquired under this method of brand assignment by the Tin Plate Company?

MR. LINDABURY: Are you speaking of a particular time?

MR. DICKINSON: Yes.

MR. LINDABURY: Not of the whole period?

MR. DICKINSON: Beginning with three months after the formation of the American Tin Plate Company; not all at one time, but under this system which prevailed as long as it did prevail, while you were with the Company, Mr. Davis.

A. Without having access to the records of the company I should judge there were about 85 per cent of the brands assigned.

By MR. DICKINSON:

Q. Who were the owners of those brands, generally?

A. Jobbers throughout the country.

Q. And also operators of dipping plants owned some of them?

A. No.

Q. Jobbers generally throughout the country?

A. Yes.

Q. State whether or not this system of assignment of brands was confined to any particular territory or whether it prevailed generally throughout the country?

A. It prevailed generally.

Q. When was the system of allowing credits upon the basis of percentage of purchases inaugurated?

A. I think it was in 1902.

Q. And how long did that continue?

A. Until 1908.

Q. Do you know a concern called the American Can Company?

A. Yes, sir.

Q. State whether any of the officers or directors of the United States Steel Corporation, or of the American Tin Plate Company were also officers or directors of the American Can Company?

A. Why, I never attended a board meeting of the American Can Company, but I think I could name one or two who were directors in both companies.

Q. Who were they?

A. D. G. Reed and Judge Moore.

Q. State whether or not the American Tin Plate Company made any preferential contracts with the American Can Company, by which they got a lower price than other customers.

MR. LINDABURY: I object to that as irrelevant and not calling for the best information. If it was a contract in writing, that is the only proper evidence, if any evidence on that subject is proper.

By MR. DICKINSON:

Q. Do you know whether or not there were such contracts?

A. No; I do not.

Q. Did you ever see any such contracts?

A. I do not remember ever having seen them.

Q. State whether or not about the year 1907, Mr. Davis, there were meetings in Pittsburg of various representatives of manufacturers of tin plate and sheet steel, and whether or not you attended any of such meetings?

A. Yes, sir.

Q. Where did those meetings take place?

A. I am trying to think of the name of the hotel, Judge. I will tell you in a minute. It was in a hotel.

Q. A hotel in Pittsburg?

A. Yes; I cannot just recall the name of the hotel.

Q. Were there any separate meetings of the representa-

tives of those making tin plate and those making sheet steel?

A. Yes, sir.

Q. Did you attend both classes of meetings?

A. Yes.

Q. How often did those meetings occur?

A. There was no stipulated time for the meetings; they occurred at various times.

Q. Were these luncheons or dinners or meetings?

A. They were just meetings.

Q. Meetings?

A. Informal meetings.

Q. Did you not have chairmen of those meetings?

A. Yes.

Q. Who was chairman of the meeting when the representatives of the tin plate makers came together?

A. My recollection is that Mr. E. T. Weir was Chairman of the Tin Plate meetings.

Q. And who was chairman of the meetings when the representatives of the sheet steel makers came together?

A. I think it was Mr. James Campbell, of Youngstown.

Q. With what company was he associated, if any?

A. Mr. Campbell?

Q. Yes.

A. Youngstown Sheet & Tube Company.

Q. And with what company was Mr. Weir associated, if any?

A. Phillips Sheet & Tin Plate Company.

Q. Those meetings began, did they, in 1907, or about that time?

A. I cannot recall just when they began.

Q. Were there meetings in 1907?

A. I think there were.

Q. And you attended those meetings?

A. Yes, sir.

Q. Now, tell me who attended those meetings, and with what companies they were connected. Just give the names of those who attended the various meetings, and with what companies they were connected?

A. I cannot remember who were there, Mr. Dickinson.

Q. Can you not recall any of them?

A. I can recall possibly one or two, or two or three.

Q. Name those two or three, will you please.

A. The American Rolling Mill Company.

Q. Who represented that company?

A. I think a Mr. Horner. The La Belle Iron Works.

Q. Who represented that company?

A. Mr. Scott. The Inland Steel Company.

Q. Who represented that company?

A. Mr. Beatty and Mr. Jones.

Q. You attended both meetings, and you were connected with the American Sheet Steel and the American Tin Plate Companies, were you?

A. Yes, sir.

Q. Now tell us, Mr. Davis, just what transpired at those meetings?

A. They were just informal meetings.

Q. State whether or not you discussed prices?

A. Yes, sir; we discussed prices.

Q. What was said about prices, and in what manner did you discuss them?

A. Why, we would discuss whether we ought to decline prices on account of conditions prevailing throughout the country, or whether prices should be advanced a little, for the same reason.

A. After you had finished your discussion, then what would take place?

A. After every man gave his idea as to whether conditions warranted an advancement or decline of prices, somebody would say, "I am going to decline my prices $2 a ton." Somebody else would say, "I think I will decline my prices $3 a ton." Somebody else would say, "I do not think I will change my prices at all."

Q. Then would they continue the discussion?

A. Yes; they would continue it.

Q. State whether or not, before they left the meeting there was not a general understanding as to whether the price would be advanced or whether it would be lowered?

A. Usually.

Q. Did they leave with that understanding or not?

A. Well, there would be no agreement.

Q. I understand there would be no agreement. You did not bind yourselves together by an agreement, you say?

A. No, sir.

Q. But did you have an understanding that that would be the price?

A. Well, each man would say for himself that he was going to make that price for his company.

Q. And they would all say the same price, then?

A. Practically.

Q. And would you leave with the understanding that that would be the price?

A. Well, if I would leave the meeting saying that was going to be our price we would stick to it usually.

Q. Did you expect the others to do the same thing?

A. We would expect them to, but they did not.

Q. Suppose it transpired, or came to the knowledge of some of the others that someone who had announced his price did not stick to it, what, if anything, was done about it?

A. Well, we would investigate it.

Q. You would investigate it?

A. And see what he had done. But he usually had made a mistake.

Q. That is to say, he would say he had made a mistake?

A. Yes, sir.

Q. So when a man announced a price at which you understood from him he was going to sell, and you found out that he had sold at a lower price, you investigated him, did you?

A. Yes, sir.

Q. State whether or not you would bring it to the attention of the Chairman?

A. Usually.

Q. Then what would happen?

A. Why, he would be asked whether or not he had cut the price.

Q. Would you get together again?

A. Occasionally. Usually after that, yes.

Q. Usually after that you would get together?

A. Yes.

Q. After somebody had complained to the Chairman?

A. Yes, sir.

Q. And then this man would be asked about it?

A. Yes.

Q. What would you do then?

A. One of us would say, "If you are going to cut the price so much, and going to demoralize the market, we will just have to demoralize the market and cut our prices."

Q. What would usually happen before you would leave?

A. Usually this man would say his salesman had made an error and he did not intend to cut the price.

Q. Would he or would he not indicate better conduct in the future?

A. Yes.

Q. Then would you or would you not leave with the understanding that you were going to uphold those prices?

A. Yes, sir.

Q. And that process would go on, would it, from time to time?

A. Yes.

Q. I asked you especially in respect to tin plate. State whether or not the same method prevailed and the same course in respect to the sheet steel?

A. I gave you the names of the people who were present at the sheet meetings, not the Tin Plate meetings.

Q. Just reverse the question. State whether or not the same methods prevailed, and the same course, in respect of tin plate as in respect of sheet steel?

A. Usually practically the same thing.

Q. Who appointed Mr. Campbell chairman; do you know?

A. No, sir.

Q. Do you know whether or not Mr. Campbell was one of the gentlemen who attended the Gary dinners?

MR. LINDABURY: I object. Did you attend the Gary dinners?

THE WITNESS: No, sir.

MR. LINDABURY: What is the object of this?

MR. DICKINSON: I hardly think I am called upon to state.

MR. LINDABURY: I think counsel had better state, if there is a legitimate object. I cannot discover it.

By Mr. Dickinson:

Q. I ask you whether Mr. Campbell was appointed Chairman by Judge Gary?

A. I do not know, sir.

Q. You do not know?

A. No, sir.

Q. If he appointed him you were not there?

A. No, sir.

Q. Did your association appoint him?

A. We had no association.

Q. Your meeting?

A. Mr. Campbell would usually call us all together.

Q. He assumed the office of Chairman, did he?

A. Yes, sir.

Q. And you all acquiesced in it?

A. Yes.

Q. And you do not know the source of his authority?

A. No, sir.

Q. It was recognized, however, was it?

A. Yes.

Q. Who appointed Mr. Weir as Chairman?

A. Mr. Campbell.

Q. When were these meetings held in point of time, with reference to the Gary dinners?

Mr. Lindabury: I object. The witness was not at the Gary dinners, and knows nothing about that.

By Mr. Dickinson:

Q. You have heard of the Gary dinners, have you not?

A. I have read of them.

Q. Read of them in the papers?

A. Yes, sir.

Q. As matters of general notoriety?

A. As a matter of news.

Q. State when these meetings that you referred to in Pittsburg took place with reference to the time of those Gary dinners as a matter of news?

Mr. Lindabury: I object, as calling for hearsay.

Mr. Dickinson: We will prove it afterwards.

MR. LINDABURY: Suppose you do, and prove it in a legal way.

By MR. DICKINSON:

Q. Answer the question.

A. Shall I answer it?

Q. Yes.

A. I do not know, Mr. Dickinson.

Q. Did or did not these meetings take place closely following the times that you, as a matter of current news, learned through the prints that the Gary dinners had taken place?

MR. LINDABURY: I object to that as irrelevant, incompetent and improper, leading and suggestive, not for the benefit of the record, but some other purpose.

Q. What is your answer?

A. I think our meetings did occur after those dinners.

Q. Generally or not?

A. Well, I cannot tell you that. I do not know whether they were generally held after the dinners or not, but my impression is that some of our meetings were held after those dinners.

Q. Shortly after them or not?

A. Within about a week or ten days.

MR. DICKINSON: That is all.

CROSS-EXAMINATION,

By MR. REED:

Q. Mr. Davis, at the time the American Tin Plate Company was formed, the Canonsburg Iron & Steel Company had hot mills, had they not?

A. Yes.

Q. In operation?

A. Yes, sir.

Q. The Griffiths Charcoal Iron Mills had hot mills in operation?

A. I think so.

Q. The National Enamelling & Stamping Company had, likewise, had it?

A. I think not; I think that company had not been formed at that time.

Q. You think that had not been formed when the American Tin Plate Company was organized?

A. My recollection is that it had not.

Q. Was it not doing business at that time under the name of the St. Louis Stamping Company?

A. Not the National Enameling & Stamping Company.

Q. There was a concern called the St. Louis Stamping Company, was there not?

A. Yes.

Q. Which then operated tin mills?

A. Yes.

Q. And its name was afterwards changed to National Enameling & Stamping Company?

A. Yes, sir.

Q. Was the Parkersburg Iron & Steel Company operating tin mills during December, 1898?

A. Mr. Reed, you draw the line between tin mills and sheet mills. You spoke of hot rolls and hot mills. There is a difference.

Q. I understand hot mills are used for the production of both sheet steel and black plate, is that right?

A. No; not altogether. A lot of sheet mills cannot make black plate for tinning. They can make black sheets for galvanizing, but they cannot make black plate for tinning.

Q. The black plate is made on what are called tin mills, is that correct?

A. For tinning.

Q. Now, where does the raw material come from before it goes into the tin mills? Does it go through what are known as the hot mills?

A. No.

Q. I am a little mixed on this and I want you to explain it.

A. The hot mills, Mr. Reed, are the same in a sheet mill and a tin mill, but the rolls are somewhat different.

Q. I want to have this perfectly clear, Mr. Davis, and

suppose we start with the list of these companies again, and you tell me whether they operated tin mills or not.

A. To make sheets for tinning?

Q. To make black plate for tinning. Canonsburg Iron & Steel Company?

A. I think not.

Q. Did they have sheet mills working at that time?

A. They had.

Q. The Griffiths Charcoal Iron Mill?

A. They made charcoal iron. They made their own tin plate.

Q. At Washington, Pennsylvania?

A. I believe that is where they are.

Q. The Lalance and Grosjean Manufacturing Company at Harrisburg you have testified to in direct examination?

A. Yes, sir.

Q. The St. Louis Stamping Company; did they have tin mills?

A. Yes, sir.

Q. Running in December, 1898?

A. Accordng to my recollecton.

MR. CORNEAU: They also were a concern about which you testified on direct examination, were they not?

THE WITNESS: Yes sir.

By MR. REED:

Q. The Parkersburg Iron & Steel Company?

A. I do not think they made any black plate for tinning: I do not think they did.

Q. Did they dip any plate?

A. I think not; they never made any plate.

Q. The N. & G. Taylor Company?

A. They were dippers.

Q. Did they have tin mills?

A. No, sir.

Q. The Aleania Company, at Avonmore?

A. They made tin plate.

Q. Had they their own tin mills?

A. Yes, sir.

Q. Operating at that time?

A. I think they were.

Q. The Washington Tin Plate Company?

A. The Washington Tin Plate Company, yes; they made tin plate.

Q. Had they their own tin mills operating in December, 1898?

A. I think they had. They are operating now.

Q. The Whittaker Glessner Company you testified about in direct examination?

A. Yes, sir.

Q. The Wheeling Corrugating Company took the black plates that were produced by the Whittaker-Glessner Company and dipped them, did it not, at that time?

A. That is my recollection.

Q. So that the two affiliated concerns together produced tin plates from the bars and the finished product?

A. That is right.

Q. They were both located at Wheeling?

A. Yes, sir.

Q. Now, Mr. Davis, since the organization of the American Tin Plate Company has the percentage of the business which it controlled and which its successor, the American Sheet & Tin Plate Company, controls, shrunk to any extent?

A. Very materially.

MR. DICKINSON: Excuse me. Do you mean the business or the proportion? Which do you mean?

MR. REED: I mean the proportion of the total business of the country. I am going to ask him about that.

THE WITNESS: You asked me if the percentage of business we controlled had shrunk to any extent as compared with the percentage of production——

By MR. REED:

Q. To put it in another way: Has its percentage of the country's output, or the percentage of the country's capacity which is controlled, decreased since the company was organized, in December, 1898?

MR. DICKINSON: You are really asking two questions.

MR. REED: I know I am, and I am going to separate them with the next question.

A. The percentage has decreased very materially.

By MR. REED:

Q. Is that true both as to capacity and output?

A. I do not think the capacity has decreased any.

Q. I did not ask you that. Is that true both as to their proportion of the country's capacity and their proportion of the country's output?

A. I am afraid I do not get that.

Q. Has their percentage of the total tin plate productive capacity in the United States decreased since December, 1898?

A. Yes, it has decreased.

Q. Has their percentage of the annual output of the country also decreased since 1898?

A. Is not that the same question?

Q. No; one refers to capacity and the other to output.

A. I do not know whether their capacity has decreased or not.

Q. I did not ask you that.

A. I am trying to find out what you did ask me.

Q. I asked you as to their proportion of the total capacity of the country and you have told me that that decreased.

A. That did decrease.

Q. Now I am asking you about their proportion of the total output of the country.

A. Is not that the same thing?

Q. Not necessarily. I may have capacity to produce a thousand tons of tin plate and actually not produce any.

A. I do not know what their output is. I do not know whether they have decreased or increased their output.

Q. I did not ask you whether they decreased their output, but whether their percentage of the country's output annually had decreased; and you say you do not know.

A. No, I do not know.

MR. LINDABURY: I think he does know.

THE WITNESS: If you will put it to me so I can understand it better. I may know. I cannot get the question. What I

meant is that they do not control within a considerable percentage of what they did control. That is what I mean.

By Mr. Reed:

Q. Do you know the American Rolling Mill Company of Zanesville, Ohio?

A. Middleton, Ohio.

Q. Zanesville was the address I had.

A. I know the American Rolling Mill Company in Middleton, Ohio.

Q. Have they also a plant at Zanesville?

A. I do not know.

Q. At the present time do they manufacture tin plate?

A. I think they are now manufacturing terne plate.

Q. Does the Brier Hill Steel Company of Youngstown now manufacture tin plate?

A. No, sir.

Q. Does it manufacture terne plate?

A. No. sir.

Q. Does it manufacture black plate?

A. Not for tinning.

Q. What does it manufacture?

A. Galvanized and black sheets, and roofing products.

Q. Do they manufacture black plate which could be tinned by one of these dipping plants?

A. No, sir; they have no dipping facilities.

Q. Do you know the Carnahan Sheet & Tin Plate Company of Canton, Ohio?

A. I know of them.

Q. Do they manufacture tin plate?

A. Yes, sir.

Mr. Dickinson: As of what time are you asking?

Mr. Reed: I am putting it in the present. I say "Do they manufacture tin plate?" and I mean at the present time.

By Mr. Reed:

Q. Do you know the De Forest Sheet & Tin Plate Company of Niles, Ohio?

A. I have heard of them.

Q. Do they now manufacture tin plate?

A. I think not.

Q. What do they manufacture?

A. I think they manufacture sheets. I do not know.

Q. Do you know the Follansbee Brothers Company, of Follansbee, West Virginia?

A. I know them.

Q. Do they now manufacture tin plate?

A. Yes, sir.

Q. Do you know the Griffiths Charcoal Iron Mills, and do you know whether they are still in business in Washington?

A. Yes, sir.

Q. Are they still manufacturing tin plate?

A. Yes, sir; terne plate.

Q. And terne plate?

A. Only terne plate.

Q. Do you know whether the Inland Steel Company of Indiana Harbor are now manufacturing tin plate?

A. I think not.

Q. Is it now manufacturing terne plate?

A. I think not.

Q. Is it now manufacturing sheet steel?

A. Yes, sir.

Q. Do you know the Western Sheet & Tin Plate Company of Greencastle, Indiana?

A. I do not think they are in business.

Q. Let us go back to the Inland Steel Company again. Does it now manufacture black plate for tinning?

A. I think not.

Q. Is it not true that they have tin mills there?

A. If they have, I do not know it.

Q. Do you know the Jobe Iron & Steel Company of Ashland?

A. I have heard of them.

Q. Do they now make tin plate?

A. I do not know, sir.

Q. Does the Jones & Laughlin Steel Company of Pittsburg now make tin plate?

A. Yes, sir.

Q. On a very large scale?

A. Yes, on a large scale.

Q. How many mills have they?

A. I think they have 24.

Q. Do you know The Massillion Rolling Mill Company?

A. I have heard of them.

Q. Do they now make tin plate?

A. I think not.

Q. What do they make?

A. I think they make sheets; galvanized and black sheets.

Q. Do they make a plate?

A. For tinning—I do not think they do.

Q. Do you know the McKeesport Tin Plate Company?

A. They make tin plate.

Q. At the present time?

A. Yes, sir.

Q. On a large scale?

A. Yes.

Q. How many mills have they?

A. I think they have 22 mills.

Q. And it is a successful company, is it not?

A. Very.

By Mr. Lindabury:

Q. Is that mill a unit in the manufacture of this product?

A. Yes, sir.

By Mr. Reed:

Q. Do you know whether the National Enameling & Stamping Company of Granite City, Illinois, is now manufacturing tin plate?

A. Yes, sir.

Q. How many mills have they?

A. I do not know. I think they have 20. I am not sure. It may be more.

Q. It is very successful, is it not?

A. So far as I know.

Mr. Dickinson: Mr. Reed, I do not want to interrupt you. but I will agree to do this: If you will have a statement made

up of these mills, as of the time this bill was filed, with the different products and their capacity, I will have it checked over and agree to let it go in.

MR. REED: I am very nearly through, Judge, and perhaps I had better finish in this way.

By MR. REED:

Q. The Newport Rolling Mill Company, of Newport, Kentucky, is now making tin plate, is it not?

A. Not that I know of.

Q. Is it making black plate?

A. I think not.

Q. Is it making sheets?

A. I think so.

Q. How about the Osterberg Tin Plate Company?

A. My recollection is that they make tin plate.

Q. At the present time?

A. Yes, sir.

Q. Take the North American Steel Company.

A. I have never heard of it.

Q. At Belington, West Virginia.

A. Oh, yes, I have heard of it. It is an abandoned mill.

Q. It is not running now?

A. No.

Q. Is the Parkersburg Iron & Steel Company still in business?

A. Yes. They do not make tin plate.

Q. Do they make black plate for tinning?

A. I do not think they do,

Q. The Phillips Sheet & Tin Plate Company is your own concern?

A. Yes, sir.

Q. How many mills have you in your plant?

A. We have three plants.

Q. How many mills in the three plants?

A. Four.

Q. Is that a reasonably successful concern?

A. Reasonably so.

By MR. LINDABURY:

Q. Is it as successful as you would like?

A. Certainly not.

By Mr. Reed:

Q. Is the Standard Tin Plate Company of Canonsburg, now making tin plate?

A. Yes, sir.

Q. Is the N. & G. Taylor Company still making tin plate?

A. They are making tin plate.

Q. And terne plate?

A. Yes, sir.

Q. Successfully?

A. I do not know, sir.

Q. Is The Alcania Company of Avonmore still making tin plate?

A. I do not know whether they are running or not.

Q. How about the Union Sheet & Tin Plate Company of Marietta?

A. I think they are not running.

Q. The Washington Tin Plate Company is still running is it not?

A. Yes, sir.

Q. Is the Whittaker-Glessner Company still running?

A. I think so.

Q. And the Wilke Rolling Mill Company at Sharon—is that making it at the present time?

A. Not tin plate.

Q. Do you know the Ferguson Tin Plate Company?

A. I think they are dippers.

Q. Are they located at Pittsburg?

A. Yes.

Q. Do you know the Merchant & Evans Company at Philadelphia?

A. They are dippers.

Q. How about Meurer Brothers of Brooklyn?

A. They are dippers.

Mr. Dickinson: I enter a general exception to all the testimony as to these manufacturers making tin plate and various products as of the present time, unless it be shown that they were making them when the petition was filed, October 26,

1911. I think it is incompetent and irrelevant to prove anything that may have intervened between that period and this time.

MR. LINDABURY: An injunction case is tried as of the time of the trial; it deals with a situation existing not at the beginning of the suit, but as of the time of the trial.

MR. REED: It may have a bearing on the question of costs.

MR. DICKINSON: I enter the exception.

By MR. REED:

Q. If, in the list of companies that I have just gone over with you, there are any that have started to make tin plate or terne plate or sheet steel since the 26th of October, 1911, I wish you would specify which one has commenced in that way.

A. I know of but one that I can recall. That is the Washington Tin Plate Company?

Q. On the 26th of October, 1911, was the Washington Tin Plate Company manufacturing anything? Had it begun to manufacture anything?

A. In October?

Q. The 26th of October?

A. 1911—the Washington Tin Plate Company was down.

Q. Was it down temporarily?

A. It had been down for about a year.

Q. It has started up since then?

A. It has started up since then.

Q. Prior to that shut-down, had it been engaged in the manufacture of tin plate?

A. Yes.

Q. Are there any of these concerns which I have mentioned to you which have made tin plate for the first time since the 26th of October, 1911?

A. Yes, I think the American Rolling Mill Company is one.

Q. Had it manufactured tin plate before that?

A. I think it had not manufactured tin plate before October.

Q. Had it manufactured terne plate before October?

A. No, I think not. Now, I am not sure of that, Mr. Reed. I think not.

Q. With that exception, is there any one of these companies on the list I have just gone over with you which was not in business and manufacturing terne plate and sheet steel as you have described it, prior to the 26th of October, 1911?

A. The American Rolling Mill is the only one I see that was not manufacturing before that date.

Q. Then your testimony as to the business of these companies at the present time, with the exception of the American Rolling Mill Company, was true as of the 26th of October, 1911?

A. So far as I know.

(Whereupon, at 12:32 o'clock p. m., a recess was taken until 2 o'clock p. m.)

AFTER RECESS.

At the expiration of the recess the hearing was resumed.

TESTIMONY OF HOWARD M. DAVIS, CONTINUED.

CROSS-EXAMINATION CONTINUED,

By MR. REED:

Q. You were asked this morning about this matter of assignment of brands by jobbers to the American Tin Plate Company. Did the American Tin Plate Company, or its successor, the Sheet & Tin Plate Company, have any brands of its own?

A. A great many.

Q. About how many?

A. I should say from 100 to 150.

Q. Were those brands materially of the same sort as those which were made for jobbers under the jobbers' brands?

A. Yes, sir.

Q. Then, in a sense, the company's brands were in competition with the jobbers' brands?

A. Exactly.

Q. What was the reason for requiring the assignments of these brands by the jobbers?

A. I suppose there were two reasons.

Q. What were they?

A. One was to retain the trade of the jobber, and the other was to protect their own brands.

Q. The good will that was attached to any jobber's brand, of course, belonged to the brand itself. That is correct, is it not?

A. Yes, sir.

Q. I want to come now to these meetings that you say were held in 1907 and for some time after that, by the different makers of tin plate.

A. I cannot remember the dates of those meetings, whether it was 1907 or 1908; I do not know.

Q. How long is it, Mr. Davis, since those meetings were discontinued?

A. I do not know that.

Q. About how long is it since the last meeting that you know about?

A. About eighteen months.

Q. You do not know of any such meeting having been held within the last eighteen months?

A. I say about eighteen months. It may have been a little longer than that, or it may have been a month or two since then.

Q. Is it a fact that the lowest bidder usually makes the market price of any commodity, such as yours, any standard commodity?

A. He would have the market, if he had the same reputation for filling his orders as his competitor.

Q. Take your particular business, the manufacture of tin plate. You dealt in standard products, did you not?

A. Are you speaking about the American Tin Plate Company now?

Q. I am speaking of the American Tin Plate Company.

A. Yes, sir.

Q. It manufactured standard styles of tin plate?

A. Yes.

Q. There were a number of other manufacturers in 1907,

1908 and 1909 who manufactured the same kinds of tin plate, were there not?

A. Yes, sir.

Q. And all those other manufacturers have a good reputation for quality of product and promptness of delivery?

A. Most of them.

Q. As to those whose reputaton was good, as good as that of the Tin Plate Company——

MR. DICKINSON: Excuse me. What year are you speaking of?

MR. REED: I am speaking of the period during which these meetings were held.

By MR. REED:

Q. As to those whose reputation was as good as that of the Tin Plate Company, it was a fact, was it not, that the lowest price quoted by any one of those manufacturers made a market practically for the others?

A. Well, in a sense it made the market. The other manufacturers would have to meet that price.

Q. That is what I mean.

A. They would have to meet that price to get the business.

Q. But any one of those, we will call them standard manufactures, could compel or force a reduction in the market price of those standard commodities by reducing his own price, because all of the others would have to meet his quotations. Is that correct?

A. That is correct in one sense.

Q. In what sense is it not correct?

A. Some manufacturer could reduce the price, or perhaps all the manufacturers in a certain territory, being located in such a place as to give them a freight advantage.

Q. The reduction in price by a manufacturer located in Pittsburg, for instance, would tend to reduce the price of almost all these companies, would it not?

A. Yes, sir.

Q. At these meetings, you have testified that there was no agreement as to price. Was there any obligation assumed by

the manufacturers who attended those meetings to maintain a particular price for a particular time after the meetings?

A. No, sir.

Q. Was it customary for them to declare their intention at the time about the prices that they would charge for their products?

A. They did declare the prices that they would charge. Now, Mr. Reed, please let me make this clear.

Q. Yes, sir.

A. I said there was no general agreement among the manufacturers as to prices, but each manufacturer would say for himself and for his own company what he expected to charge for his product.

Q. In case the price was not established and the information not given out in that way, how would you find out the price that your competitor was charging?

A. We would find out from the buyer and from our different sales representatives.

Q. Then the effect of these meetings was to give that information in an open and aboveboard way, which otherwise you would be compelled to get from the salesmen and the purchasers of tin plate?

A. Yes, sir.

Q. Or get it secondhand in some way?

A. Yes.

Q. Was anything else discussed at those meetings except prices?

A. General conditions.

Q. Trade conditions, you mean?

A. General trade conditions.

Q. Cost of materials?

A. Yes, cost of materials.

Q. And matters of that kind. In the petition filed in this case by the Government we find the following statement:

"It is not here alleged that merely assembling and mutually exchanging information and declaration of purpose amounts to an agreement or combination in restraint of trade."

I wish you would tell us whether, at these meetings you speak of, anything more than assembling and mutual ex-

changing of information and declaration of purpose was done?

A. Not that I know of.

Q. Not at any meeting at which you were present?

A. No, sir.

REDIRECT EXAMINATION,

By Mr. Dickinson:

Q. You have stated that the effect of assigning these brands, or one of the effects, was to retain the trade of the jobber. Explain how that operated.

A. It gave our company the exclusive right to manufacture those brands for those jobbers who assigned them to the company—the exclusive right.

Q. Did it not go further? If that company bought from anybody else, did it not give you the brand too?

A. Yes, sir.

Q. You were asked whether or not the lowest price would fix the price for others at these meetings to which you have referred, where you speak of announcing prices. Did they always leave with the understanding that the lowest price that had been named at that meeting would be the price they were going to sell at?

A. When they would leave the meeting each man for himself, for his own company, had stated that his price would be so and so, and that price conformed to the statements made by the other representatives present. The fact is that when the meeting would break up each man had stated that his price would be the same as the other man's.

Q. So they would all reach the same price before they broke up?

A. Without agreement?

Q. Yes, without an agreement. I understand you did not make any agreement. But, as a matter of fact, you interchanged and announced until you got to a point where each man, when he left, understood that all the others were going to sell at the same price?

A. That is very true.

Q. That was true, was it? That price was not necessarily

the lowest price that some one had named at the meeting, was it?

A. No, sir.

Q. There was a uniformity of conclusion as to the price, was there not, before you left?

A. Yes, sir.

Q. And you relied, each on the other, to sell at that price?

A. We did.

Q. And conducted your business on the faith of that?

A. Yes, sir.

Q. When one sold below the price and you found it out, you would take steps to have another meeting and inquire into it?

A. Yes, sir.

WILLIAM E. REIS,

called as a witness in behalf of the United States, being first duly sworn, testified as follows:

By Mr. Dickinson:

Q. Mr. Reis, what is your age?

A. Sixty-two.

Q. Where do you live?

A. Greenwich, Connecticut.

Q. What is your present business?

A. I am not in any active business.

Q. Are you connected with any firm at all?

A. Special partner in a brokerage house, only.

Q. What is the name of that house?

A. Raymond Pynchon & Company.

Q. Where are they located?

A. 111 Broadway.

Q. New York?

A. New York.

Q. Are you a stockholder in the United States Steel Corporation?

A. Yes, sir.

Q. You have not talked with the Government counsel as to what your testimony would be in this case, have you?

A. No, sir.

Q. You have declined to give them information, have you not?

A. I have not given anybody any information.

Q. I say, you have declined to give the Government's counsel any information, have you not?

A. Yes, sir.

Q. Mr. Reis, were you formerly connected with the National Steel Company?

A. Yes, sir.

Q. Before that did you have any connection with any manufacture of steel or iron?

A. Yes, sir.

Q. What company?

A. Shenango Valley Steel Company.

Q. Did the Shenango Steel Company go into the National Steel Company?

A. It did.

Q. How long had you been connected with the Shenango Valley Steel Company?

A. I started it.

Q. About what time was that?

A. I had been in the business that that grew out of since 1869.

Q. You were well acquainted, then, with that business and others who were in like business, were you not, in the United States?

A. Generally; yes, sir.

Q. You were generally familiar with those concerns who were making articles similar to those that the Shenango Valley Steel Company was making?

A. Yes, sir.

Q. Were you one of the active organizers of the National Steel Company?

A. I was not.

Q. Had you anything to do with any of the preliminary conferences leading up to it?

A. I had not.

Q. Did you represent your company in the formation?

A. I did.

Q. You knew by what company it was going to be taken over, did you not?

A. No, I did not.

Q. The National Steel Company?

A. Not at the conference in regard to our own company.

Q. Before you transferred, you knew, did you not?

A. Before I went in, yes, sir.

Q. You knew what the company would be?

A. Yes, sir.

Q. Did you know what the capital stock would be?

A. I did not know then; no sir.

Q. What did your company or your stockholders get in payment for their stock, or property of the Shenango Valley Steel Company?

A. They got stock of the National Steel Company.

Q. They got stock of the National Steel Company, you say?

A. Yes, sir.

Q. Before you finally agreed to sell you knew how much stock you were going to get, did you not?

A. My option was for cash or part cash or all stock or part stock.

Q. Before you concluded the matter and made the transfer you knew that you were going to get part stock in the National Steel Company, did you not?

A. All stock is what we decided to take.

Q. You knew what the amount of that capital stock would be did you not?

A. Yes, sir.

Q. You knew what companies were going to be taken over by it?

A. Yes, sir.

Q. Then before you did make a transfer of your company you did know about the organization of the National Steel Company, and the amount of its capital stock, and what the constituent companies were to be?

A. I did; yes, sir.

Q. Mr. Reis, at the time of the organization of the National Steel Company, which was in February, 1899, what

was the Ohio Steel Company, of Youngstown, which went into the organization, making?

A. Billets and sheet bars, principally; slabs.

Q. Tin plate bars, also?

A. Yes, sir; sheet and tin plate bars.

Q. Was it making any steel rails?

A. No, sir.

Q. Are you confident that they were not making steel rails?

A. Yes sir.

Q. Was that a large or a small concern, the Ohio Steel Company?

A. Large.

Q. Where did your company market its product before this organization, or just at about the time of this organization?

A. I do not know the extent of their market; around through Pennsylvania and Ohio in the iron and steel district.

Q. In Pennsylvania and Ohio?

A. Yes, sir.

Q. Where was the Shenango Valley Steel Company located.

A. Newcastle, Pennsylvania.

Q. Where did you market your products?

A. In a similar district.

Q. Did you come into competition with the Ohio Steel Company?

A. We certainly did.

Q. Outside of the State of Pennsylvania did you come in competition with them in the sale of your products?

A. They were located in Ohio.

Q. I know, but did you come in competition with them outside of the State of Pennsylvania?

A. Yes, sir.

Q. And also outside of Ohio?

A. I think so.

Q. Now, the Buhl Company. That was located at Sharon, Pennsylvania, was it?

A. Yes, sir.

Q. The Buhl Company made blooms, slabs, sheets and tin plate bars and billets, did it not?

A. I believe so; yes, sir.

Q. It did to the best of your knowledge?

A. Yes, sir. I would not be sure about the tin plate bars. They made billets.

Q. But the other articles you are sure about?

A. Yes, sir.

Q. State whether or not that was in competition outside of the State of Pennsylvania in interstate commerce with the Ohio Steel Company and the Shenango Valley Steel Company?

A. We did not run against them as much as the other.

Q. But you ran against them somewhat?

A. They were a very small concern.

Q. The Sharon Iron & Steel Company; where was that located?

A. Sharon, Pennsylvania.

Q. What did that company make, if you know?

A. They were a finishing mill. They were not a steel plant at all.

Q. Did they make bars?

A. Merchant bars.

Q. Bands and hoops?

A. Yes.

Q. Did they make any light rails, or do you know?

A. I could not say.

Q. Did they make sheet iron and steel?

A. I think they made sheet iron and sheet steel.

Q. Where did they sell their products, generally?

A. I could not tell you.

Q. You do not know?

A. No, sir.

Q. The King, Gilbert & Warner Company, of Columbia, Ohio. What did they make?

A. Billets and bars.

Q. And slabs?

A. Slabs.

Q. Were they in competition with these other companies which you have mentioned in interstate commerce.

A. Except the Sharon.

Q. The Bellaire Steel Company. State whether they came in competition with these other companies you have mentioned, except the Sharon?

A. They did.

Q. And were in competition with them in interstate commerce.

A. They were.

Q. Do you know anything about the Mingo Works of the Aetna Iron & Steel Company?

A. They were a Bessemer steel plant making a similar product billets and bars and slabs.

Q. Were they, or not, in competition with those other companies you have mentioned except the Sharon?

A. They were.

Q. Outside of the State of Ohio, where they were located?

A. Yes, sir.

Q. Mr. Reis, state whether or not, after the formation of the National Steel Company, it came in competition with the Federal Steel Company in interstate commerce.

A. To a small extent, I would think so.

Q. In what articles?

A. In billets.

Q. The Federal Steel Company was a large company, was it not?

A. A large company?

Q. Yes.

A. We did not think it was very much larger.

Q. What articles or products did you make that the Federal Steel Company made?

A. I think four-inch billets represented about the only competition we had with them.

Q. But you did have competition with them in interstate commerce on four-inch billets?

A. I think so.

Q. How about the Carnegie Steel Company?

A. The same would apply to them.

Q. What did the Carnegie Steel Company make?

A. An indefinite variety of stuff. I could not tell you.

Q. What did they make that you made?

A. Four-inch billets.

Q. Is that all?

A. And sheet bars. I am not certain about the sheet bars

By Mr. Severance:

Q. That leaves only four-inch billets, as far as you know?

A. Yes, sir.

Q. You mentioned four-inch billets and sheet bars, and you said you were not sure about sheet bars?

A. Yes, that is what I said.

By Mr. Dickinson:

Q. Did you make rails?

A. No, sir.

Q. Did you make tank plates?

A. No, sir.

Q. Did you make universal plates?

A. No, sir.

Q. Did you make any structural work?

A. No, sir.

Mr. Dickinson: That is all.

CROSS-EXAMINATION,

By Mr. Severance:

Q. Mr. Reis, you were asked about competition with the Carnegie Steel Company. Was that company a customer of yours also?

A. Largely.

Q. What did you sell to the Carnegie Company?

A. Four-inch billets.

Q. So that they were customers of yours as to the same commodity in which at times you were in competition?

A. Yes, sir.

Q. Can you tell anything about the percentage of the total business of the Carnegie Company that was thus in competition with you?

A. Indeed I could not.

Q. It would be very considerable?

A. It would be very considerable; yes, sir.

Q. The portion of your business in which you were in competition was a small proportion of your business?

A. At times it was quite large.

Q. At times quite large and at other times very light?

A. Nothing at all.

Q. Nothing at all?

A. Yes.

Q. When you say it was quite heavy, what percentage would that be of your total output of all classes, or can you not tell?

A. Well, we sold them probably 40 per cent of our total output of billets in a given month.

Q. Billets?

A. Yes, sir.

Q. What percentage of the total output of everything would that be? I mean, you made other things besides billets?

A. Oh, it would be a very small proportion.

Q. That is what I thought. So when you said "very large", you meant at times you would sell them quite a large percentage of your billets?

A. Are you speaking now of the National Steel Company?

Q. I am speaking now of the Shenango.

MR. DICKINSON: Oh, no, the National Steel Company.

MR. SEVERANCE: Well, put it the National Steel Company. I thought you were examining about the Shenango.

MR. DICKINSON: No; The National.

A. The National would have very little connection with the Carnegie in the sale of billets.

By MR. SEVERANCE:

Q. Did they at times sell billets to the Carnegie Company?

A. I do not recall any instance.

Q. In proportion to the total tonnage of the National Steel Company, the tonnage of these four inch billets that was competitive with the Carnegie Company, formed a very small percentage, did it not?

A. Yes, sir.

Q. And the same, or even less, as to the Illinois Steel?

A. Much less.

Q. As a matter of fact, the competition of the National Steel Company with the Illinois Steel Company was almost negligible, was it not?

A. Practically so.

Q. Was the American Tin Plate Company a large customer of the National Steel Company?

A. Yes, sir.

Q. Did you have any common officers?

A. Only through the executive committees.

Q. Did you have the same treasurer?

A. Yes; we had the same treasurer, Mr. Wheeler.

Q. And was he also treasurer of the American Steel Hoop Company?

A. I believe so.

Q. And of the American Sheet Steel Company?

A. I do not know. The three companies I know.

Q. Were the executive committees of these companies composed of the same men, substantially?

A. No, sir.

Q. Nor a majority of them the same men?

A. No, sir.

Q. You said their connection was through the executive committees?

A. Well, they had the same—the organizers of the companies remained on the executive committees of all the companies.

Q. They were Mr. Reid?

A. Mr. Reid.

Q. And Mr. Leeds and W. H. Moore and J. H. Moore?

A. I believe so; yes, sir.

Q. Those four gentlemen?

A. Those four gentlemen were on the executive committees of all these companies, as I remember it.

Q. Was the American Hoop Company a customer of the National Steel Company?

A. It was, yes, sir.

Q. A large customer?

A. Yes, sir.

Q. And was the American Sheet Steel Company a customer?

A. It was.

Q. It was a customer?

A. Yes.

Q. Outside of some standing contracts with the Carnegie

Company, the American Tin Plate Company bought practically all of its material from the National Steel Company, did it not?

A. After they had exhausted the contracts taken over with the constituent companies, they were practically our sole customers—they alone bought from us.

Q. They alone bought from you?

A. Yes; practically so.

Q. You have stated that after the Tin Plate Company had exhausted the contracts that were in existence at the time they took over the various plants that came to them, they bought substantially all of their raw material or steel from you?

A. They did.

Q. That is what you intended to say?

A. That is what I intended to say.

Q. That is what I understood you to say.

A. Yes, sir.

Q. What was the general condition in the country as to trade at the time of the organization of the National Steel Company?

A. We passed through a period of depression from 1893 up to 1898 or 1899.

Q. A very severe period?

A. A very severe period of depression.

Q. What was the situation of companies like the Shenango and other companies that manufactured pig iron, as to large stocks on hand, in 1898?

A. From personal knowledge we had accumulated a large stock, and from observation I noticed large stocks all through the Shenango and Mahoning Valleys.

Q. For which there was no sale until times picked up?

A. No market.

Q. It has developed here that in the year 1899 prices went up considerably; that is, during the latter part of that year and in the year 1900.

A. Yes.

Q. What was the occasion of that rise in prices, Mr. Reis, from your observation?

A. It was a natural sequence after a long depression, due

to the increased growth of the country and the exhaustion of supplies. I would consider it a natural sequence of the depressed times.

Q. Then those enhanced prices were the normal and natural result of the period of depression that had previously existed?

A. That would be my judgment.

Q. And after things got to booming, they went up very fast did they not?

A. Very fast.

Q. That condition was not confined to the steel industry, was it, or the iron industry, but it was general?

A. The general business of the country, the construction and erection of buildings.

Q. Was there at or about that time a largely increased use of steel for construction? Did that begin about that time?

A. I think so. The structural material for buildings and boats, vessels.

Q. During this period of depression there had not been a large amount of building, had there, through the country, of large structures?

A. No, sir.

Q. And it all came with a rush?

A. All came at once.

Q. And in addition to the purpose to which steel had previously been put, there was this new use, was there, or practically new use, of building these sky-scrapers out of steel?

A. That is practically new, yes, sir.

Q. And did not the use of steel in railroad and other bridges largely increase about that time?

A. It did.

Q. I think you stated that the plants owned by the National Steel Company did not manufacture rails?

A. They did not.

MR. SEVERANCE: I think that is all.

RE-DIRECT EXAMINATION.

By MR. DICKINSON:

Q. Mr. Reis, you said you made no rails at your mill?

A. We did not.

Q. I will ask you whether or not it was equipped for making rails? Was it not rated as having a capacity for rails?

A. At the time of the acquisition of the Ohio Steel Company they had under construction a rail mill.

Q. What time was that?

A. When the National Steel Company took over the Ohio Steel Company.

Q. When was that?

A. In 1899.

Q. So, before the National Steel Company was taken over by the United States Steel Corporation, it was equipped for the making of rails, was it?

A. Yes, sir.

Q. And had a capacity for that purpose?

A. It had a rail mill, yes, sir.

Q. You say business got to booming. What time did that boom begin?

A. It started, I think, in 1898, the winter of 1898 and 1899.

Q. And that was about the time combinations got to booming, too, was it?

A. They seem to have been identical, yes, sir.

Q. When I asked you about competition with the Carnegie and the Federal Companies, did you understand that my questions applied to the National Steel Company or the Shenango?

A. The National Steel Company.

Q. That is what you understood?

A. Yes, sir.

Q. And you say they were competitors?

A To a limited extent, yes, sir.

Q. Well, when you speak of a limited extent, you compare that percentage with the whole product of the country, do you?

A. I mean by that that we were not manufacturers of any finished material that went to the consumers.

Q. It was limited in that sense?

A. It was limited to the semi-finished or raw material.

Q. And in that sense you used the word "limited"?

A. Yes, sir.

RECROSS-EXAMINATION,

By Mr. Severance:

Q. You stated in detail what that competition related to in answer to my questions?

A. It related principally to four-inch billets.

Q. That is what I understood. With reference to that rail mill, you say the rail mill was under construction at the time the Ohio Steel Company was taken over by the National Steel Company?

A. Yes, sir.

Q. Did you ever manufacture rails?

A. I do not think we rolled any during the existence of the National Steel Company.

Q. You do not think you did?

A. After the organization of the United States Steel Corporation.

Q. After that were rails rolled at that mill?

A. I do not remember.

Q. Did you go out of the business?

A. I went out of the business.

Mr. Severance: That is all.

Mr. Dickinson: I would like to ask one question, Mr. Severance, with your permission.

Mr. Severance: Certainly; proceed.

REDIRECT EXAMINATION,

By Mr. Dickinson:

Q. Did or did not your company have strong competitors in your business in 1899, and were not the Federal and the Carnegie Companies the strong competitors of the National Steel Company?

A. Strong competitors?

Q. Yes.

A. Well, as I say, their principal products, that of both the Federal and the Carnegie Companies, were finished material.

Q. In the things that you made and sold in the market they were strong competitors of yours?

A. They were, yes, sir.

MR. DICKINSON: That is all.

RECROSS-EXAMINATION,

By MR. SEVERANCE:

Q. Just a moment. Are you not mistaken about the principal products of the Federal being finished material? Should you not confine that to the Carnegie?

A. I do not think so. I call rails a finished product.

Q. You include rails?

A. Yes, sir.

MR. SEVERANCE: That is all.

(Witness excused).

HARLOW B. WHEELER,

called as a witness in behalf of the United States, being first duly sworn, testified as follows:

By MR. DICKINSON:

Q. The American Tin Plate Company was served with a subpoena duces tecum to produce certain papers therein described, and, as I understand, you have appeared on behalf of that company and also the American Sheet & Tin Plate Company, to answer that subpoena?

A. Yes, sir.

Q. Where do you live, Mr. Wheeler?

A. Sewickley, Pennsylvania.

Q. What is your age?

A. 54.

Q. What position do you hold with either of these companies?

A. Secretary and Treasurer of both.

Q. Secretary and Treasurer of both companies. How long have you been Secretary and Treasurer of the American Sheet & Tin Plate Company?

A. Since its organization, or since the consolidation in 1904.

Q. Prior to that what was your position?

A. I was Secretary and Treasurer, I think, since 1902.

Q. Of the American Tin Plate Company?

A. Of the American Tin Plate Company, and treasurer of the American Sheet Steel Company.

Q. Those two companies were combined under the American Sheet & Tin Plate Company?

A. Yes, sir.

Q. Have you or have you not the custody of the papers of those companies?

A. Some of them.

Q. State the character of papers of which you have the custody.

A. General contracts and title papers.

Q. What do you mean by general contracts?

A. Contracts that are for a period of years.

Q. You mean contracts that run for a period of years?

A. Yes.

Q. And title papers. Is that all of which you have charge?

A. I have charge of the papers pertaining to the treasury department—records.

Q. What limitation of years determine whether or not contracts come under your custody, or not?

A. I do not think there is any. It is a question of convenience.

Q. Then what determines the question of convenience as to whether or not you have charge of contracts, or whether someone else has charge of contracts?

A. There is no definite rule.

Q. Then you have charge of some contracts, and of some contracts you do not have charge. Is that true?

A. Yes, sir.

Q. State, as nearly as you can, what contracts there are of which you do not have charge.

A. I do not have charge of contracts pertaining to sales. I do not have charge of contracts pertaining to purchases where those purchases are specific. If they relate to a general matter I might have charge of them.

Q. Then, so far as a contract in relation to the sale of the products of the American Tin Plate Company, or the American Sheet & Tin Plate Company is concerned, you have no charge of such a contract at all?

A. No, sir.

Q. Who has charge of those contracts?

A. I presume the sales department.

Q. Who is in charge of that?

A. Just at present a gentleman by the name of J. I. Andrews.

Q. How long has he been with the company?

A. I think he came to the company in 1902 or 1903.

Q. Are the papers of which you do have charge and the contracts of which you do have control kept in duplicate form or not?

A. Yes.

Q. Are they bound together in compact form?

A. Yes.

Q. How are they kept and where are they kept? Are they kept in a docket file?

A. In my room.

Q. Has that docket file an index?

A. No; it is a self index file.

Q. That is to say, by looking at the party with whom the contract is made, you can turn to the index and find the contract. Is that it?

A. The papers pertaining to each property are kept by themselves.

Q. What do you mean by each property?

A. The various mills that we took over.

Q. How many of those are there?

A. Probably forty of them.

Q. There are some forty mills in respect of which separate files are kept in regard to the contracts?

A. Not all in separate files, but they are kept by themselves.

Q. That is to say, the contracts relating to the sales of each mill are kept to themselves?

A. The title papers and all papers referring to those mills, yes, sir.

Q. When was this subpoena sent to you?

A. A week ago Friday.

Q. I believe you say you cannot produce some of the papers described herein. Is that correct?

A. Yes, sir.

Q. I will take them up in order. You were asked to produce the annual reports of the American Tin Plate Company to its stockholders, from its formation to 1902. Would those be in your custody?

A. Yes. (Witness producing papers from this pocket.)

Q. Do you now produce those?

A. These are the only reports that I find.

MR. BOLLING: Had you not better tell what they are, for what years?

THE WITNESS: The reports of the treasurer for the year 1901, I believe.

By MR. DICKINSON:

Q. They are all in triplicate, are they?

A. I think they are in duplicate or triplicate.

Q. Give me one and pass the others over to the other gentlemen.

(The witness did as requested.)

Q. In response to the command to produce the annual reports of the American Tin Plate Company to its stockholders, from its formation to 1902, you produce two unsigned typewritten statements, one dated Decembr 31, 1899, and the other December 31, 1900. Are those the reports that you made, or copies of them?

A. Those are taken from the minutes of the company.

Q. Taken from the minutes of the company?

A. They are the only copies of which I know, the only reports that I know of being made.

Q. Did or did not the American Tin Plate Company make annual reports to its stockholders?

A. Those are only reports of which I have a record.

Q. Have you no knowledge of any of those reports?

A. No, sir.

Q. When did you say you began your services with the company—the American Tin Plate Company?

A. I do not recall definitely. I think it was in 1899 or 1900. I have forgotten which.

Q. Was there no report made in 1900 to the stockholders?

A. You have the only report I have been able to find.

Q. And you say you obtained this from the minutes?

A. Yes, sir.

Q. Where are those minutes?

A. In Pittsburg.

Q. I will ask you to produce the minutes. I will proceed now, but will hold you under subpoena and ask you to produce the minutes. Do those minutes show any other reports?

A. No, sir.

Q. What other search did you make, except looking into the minutes for those reports?

A. That is the only place I know of to look for them.

Q. That is the only place you did look?

A. Yes.

MR. SEVERANCE: He says it is the only place that he knows to look.

THE WITNESS: That is the only place I knew of to look.

By MR. DICKINSON:

Q. Did you make any inquiry of the President as to whether he knew of any reports?

A. He was not connected with the company in a capacity that would give him any information on the subject.

Q. Are these minutes in your costody?

A. Yes.

Q. How far back do they run?

A. To the beginning of the company.

Q. Did you ask any other officer of the company as to whether or not any of these reports were in his charge?

A. No, sir.

Q. Did you look any other place except at these minutes?

A. No, sir.

Q. And you made no search except to look at the minutes?

A. There was no other place to look.

Q. I am just asking you whether you did or not. I am not asking you whether there was any other place. You were asked to produce an agreement or agreements between the American Tin Plate Company, entered into shortly after its formation with machinery makers, to wit; A. Garrison Foundry Company; Lewis Foundry and Machine Company; Robin-

son-Rea Machine Company; Frank Neeland & Company; Mesta Machine Company; Seamen, Sleeth and Black; Lincoln Roll and Foundry Company; George A. Hoag Iron and Steel Foundry Company; Totten and Hoag; Mackintosh, Hemphill and Company; Lloyd Brothers and Company; Riverside Foundry Company; and others, in respect to the sale of machinery and rolls for tin mills, together with agreements or arrangements concerning a contract in the nature of a lease to be entered into between the said makers of machinery and any independents buying rolls or machinery, etc., together with all letters, papers, correspondence and memoranda relating to said agreements or like agreements.

Have you any of those papers?

A. No, sir.

Q. You said a while ago that contracts of sale would not be in your custody, did you not?

A. Yes, sir.

Q. How about contracts of purchase; would they be in your custody?

A. Some of them.

Q. Would the character of contracts and papers which I have just described, in what I have just read to you, be in your custody, or not?

A. Yes; they would be.

Q. Those contracts would be in your custody?

A. Those particular contracts you are talking about were in my custody.

Q. Where are they now?

A. Destroyed.

Q. Do you know who destroyed them?

A. Yes.

Q. Who destroyed them?

A. I did.

Q. When did you destroy them?

A. I don't know.

Q. By whose authority were they destroyed?

A. Mine.

Q. By your authority? Now, I will ask you when they were destroyed. State as near as you can when they were destroyed.

A. I cannot answer that question definitely. In a general way I can say that in 1904, when we removed our offices from here to Pittsburg, a large number of useless and obsolete papers were destroyed. Whether these papers were among them or not I do not know. Since that time, it has been my practice, whenever I ran across papers that were obsolete and useless, to destroy them. Just when these papers were destroyed, I do not know, but they were destroyed.

Q. Is it the custom, and was it the custom, of the American Tin Plate Company to have regular periods for the destruction of papers?

A. No.

Q. Was there any authority given by the president or the directors of the company to you at any specified time to destroy papers of any specific character?

A. No, sir.

Q. You exercised your own judgment as to what you would destroy and what you would not destroy?

A. I did.

Q. Without any authority from anybody?

A. I did.

Q. You say those papers that I have described were destroyed—all of them?

A. Yes, sir.

Q. Then there were such papers, were there?

A. There were some papers of that general character. I won't say that they specifically answered that description, as I do not know.

Q. Did or did not the American Tin Plate Company have a contract with the Garrison Foundry Company?

A. Yes, sir.

Q. It did?

A. Yes, sir.

Q. And with the Lewis Foundry & Machine Company?

A. Yes, sir.

Q. And with all the other companies that I have just named?

A. To the best of my knowledge, yes.

Q. Did you ever see those contracts?

A. Yes, sir.

Q. Did you ever read them?

A. I may have done so, but they related to matters with which I am not familiar, so I could not say anything about them.

Q. Do you know the contents of them?

A. No, sir.

Q. Do you know what they were about?

A. The supply of materials—machinery.

Q. Supply of materials and machinery?

A. And machinery; yes, sir.

Q. To your company?

A. Yes.

Q. What kind of machinery?

A. Tin mill machinery; sheet mill machinery.

Q. These were makers of machinery to be used in the manufacture of tin plate?

A. Yes, sir.

Q. These were contracts by which these companies were to sell to the American Tin Plate Company such machinery?

A. I presume so. I cannot tell you specifically, because I do not know.

Q. You do not know that? How do you know, then, that these contracts were destroyed?

A. I know that they are not in my possession, and to the best of my recollection they were destroyed. I think I destroyed them myself.

Q. Name some of these makers of machinery with whom the American Tin Plate Company had contracts for the purchase of machines.

A. Those that you have named.

Q. I will ask you to name some of them.

A. I do not know enough about it to tell you.

Q. You do not know enough about that to tell me?

A. No, sir.

Q. Can you name any of them?

A. No—I could name some that you have already read.

Q. Well, name them.

A. The Lewis Machine Company.

Q. The what?

A. The Lewis Machine Company, I think it is, the Lewis Machine & Foundry Company, or something like that.

Q. What else?

A. The George A. Hoag Company; Mackintosh, Hemphill & Company.

Q. Wait a minute. What was the second one you named?

A. Mackintosh, Hemphill & Company.

Q. All right. What others?

A. Mesta Machine Company.

Q. What company was that?

A. The Mesta Machine Company.

Q. What others?

A. I do not recall any more at the moment.

Q. That is all that you can recall at the moment?

A. Yes, sir.

Q. But you do remember that all of these contracts with these companies, the names of which I read to you, were all destroyed by you?

A. Yes, sir.

Q. Did you destroy them yourself?

A. Yes, sir.

Q. You yourself personally did so?

A. Yes, sir.

Q. When did you last see one of those contracts?

A. I do not know.

Q. You do not know?

A. No.

Q. To the best of your recollection, when did you last see one?

A. I do not remember having seen any since 1904.

Q. Not since 1904?

A. I may have done so, but I do not remember.

Q. I will ask you whether or not these contracts provided that these makers, who contracted with the American Tin Plate Company, should not sell their machinery to any other makers of tin plate in the country?

A. I do not remember it.

Q. Do you remember any of the contents of any of those contracts?

A. No, sir.

Q. Could you state any provision in any of them?

A. No, I could not mention a single provision.

Q. How long did they run?

A. I do not know.

Q. Do you know when any of them were entered into?

A. Sir?

Q. Do you know the dates when they were entered into?

A. I do not remember that.

Q. But you know that they were destroyed not later than 1904?

A. No, I do not say that they were not destroyed later.

Q. That is what you said, to the best of your recollection, is it not?

A. No; I said I did not recall having seen one since then.

Q. Then please state to the best of your recollection when they were destroyed?

A. I cannot make it any more definite than several years ago.

Q. Several years ago?

A. Yes.

Q. Could you approximate it within two or three years?

A. I do not think I could.

Q. Or three years?

A. I do not think I could.

Q. Could you approximate it within five years?

A. I do not know how many years it was, definitely.

Q. You were asked to produce a contract between the American Tin Plate Company and the American Can Company, approved by the Finance Committee of the United States Steel Corporation, on January 12, 1904. Have you produced that?

A. I have not been able to find it.

Q. Would that contract be in your possession?

A. No, sir.

Q. Where have you looked for it?

A. I have looked for it in the sales department and in the auditing department.

Q. Who helped you to look for it, if anybody?

A. I called on the heads of those departments to make a search for it in their departments.

Q. Have you given up the search as having been thoroughly exhausted, or are you still searching?

A. They told me that they had not got them.

Q. They told you that they did not have them?

A. At least that they had not got that one.

MR. LINDABURY: What date was it?

MR. DICKINSON: January 12, 1904.

By MR. DICKINSON:

Q. Did you have any correspondence in regard to that contract?

A. Not any.

Q. What is your answer?

A. There is not anything that I know of.

Q. Have you looked for the correspondence?

A. I asked the sales department for that information and was advised that they had none.

Q. You merely asked those departments and they told you that they had none?

A. Yes, sir.

Q. You made no search yourself?

A. I am not familiar with their department, so I could not search.

Q. How about the letters?

A. I have no information in regard to the letters.

Q. What search did you make for them?

A. I asked those departments for that information, and I was told they had none.

Q. Mr. Wheeler, I will ask you either to make further search for that contract, or if you are not in a position to do it, that you will have some person or persons in those departments make a search and have them here to answer that part of the subpoena under oath, and I notify you that I will expect that of you.

MR. LINDABURY: The subpoena, Mr. Dickinson, runs to the Corporation.

MR. DICKINSON: I understand, but he is here representing the Corporation.

MR. LINDABURY: He tells you he cannot produce certain

papers. The Corporation has had a search made, and it answers that it has been made by the proper custodians in the proper departments and that it does not find these papers.

MR. DICKINSON: The only answer it has made is the answer it is making through him.

MR. LINDABURY: Of course the Corporation answers through its counsel. I have given you the Corporation's answer to the subpoena.

MR. DICKINSON: Just let the record show that, will you? Is that all the answer it desires to make to the subpoena?

MR. LINDABURY: As to this particular matter; yes. The Corporation has directed an investigation to be made by the persons in charge of the department where any of these papers would be located and it has not been able to find the particular ones about which the witness has just been interrogated.

MR. DICKINSON: This is the only employee or officer of the company who will appear?

MR. LINDABURY: I say nothing of the kind. Anyone will appear whom you ask.

MR. DICKINSON: That is the reason I have asked him to have these others present.

MR. LINDABURY: You have not asked that of us. You know perfectly well that we will have anyone come here whom you desire. This witness has no control. He is not running the Corporation.

MR. DICKINSON: Then I will request of counsel that they have the persons in whose custody these several classes of papers would be, to appear and make answer.

MR. LINDABURY: Certainly; we will do that.

By MR. DICKINSON:

Q. You were asked to produce a contract entered into on or about January 22, 1901, between the Sharon Tin Plate Company and the American Tin Plate Company, whereby the American Tin Plate Company purchased the output of the Sharon Tin Plate Company for five years, together with all correspondence, memorandas and papers relating to the said contract or any similar contract with said company. Have you those papers?

A. No, sir; I have not.

Q. This was a contract of purchase that is described here, from the Sharon Company. You stated in the early part of your examination that you did not have charge, as I understood you, of contracts of sale. How about contracts of purchase?

A. That would be in the nature of a general contract and I think would be in my possession if it was anywhere.

Q. You think it would be in your possession?

A. Yes, sir.

Q. Well, what have you to say about the non-production of that, Mr. Wheeler?

A. I do not know anything about such a contract.

Q. Have you made any search for it?

A. I have.

Q. Where did you search, Mr. Wheeler?

A. I searched through my files and documents.

Q. What files did you search in?

Q. Files where I keep papers of that character.

Q. When did you begin that search?

A. Last Saturday.

Q. When did you end it?

A. Yesterday afternoon.

Q. How much of that time were you engaged in making that search?

A. Long enough to go through the files where those papers would be.

Q. What was that file; how would you describe it?

A. Well, it is the document file in which I have all the papers pertaining to the Sharon Tin Plate Company.

Q. The document file?

A. Yes, sir.

Q. And if there was such a contract it ought to be in that file?

A. Yes, sir.

Q. You say you have no knowledge as to whether there was or was not such a contract?

A. I have no knowledge of a contract of that description.

Q. Have you knowledge of any contract by which the

Sharon Tin Plate Company agreed to sell its output for any period of time to the American Tin Plate Company?

A. I do not think there ever was such a contract.

Q. How about part of their output?

A. I do not think there was any contract with them by which they sold a definite part of their output.

Q. To your company, you mean?

A. Yes. I do not know that we ever bought anything from them, so far as I know.

Q. How?

A. We never bought anything from them, so far as I know.

Q. I questioned you about certain contracts of the American Tin Plate Company. You understood it applied to that, did you?

A. State that question again.

Q. What I have been questioning you about are contracts with the American Tin Plate Company?

A. Yes, sir.

Q. Your company, the American Sheet & Tin Plate Company, was commanded to produce certain papers, as follows.

MR. LINDABURY: Judge Dickinson, you are going to another company?

MR. DICKINSON: Yes, sir; the American Sheet & Tin Plate Company.

MR. LINDABURY: Your questions on this other subpoena were so framed as not to elicit certain information which the corporation desires to give in answer to this subpoena.

MR. DICKINSON: You mean the ones we have already spoken of.

MR. LINDABURY: Yes, sir.

MR. DICKINSON: Anything you want to state, Mr. Lindabury, state it.

MR. LINDABURY: You asked about contracts with the American Tin Can Company.

MR. DICKINSON: Yes.

MR. LINDABURY: Or, rather, you asked with regard to a contract of a particular date, which the witness said that company did not have. They have, however, contracts of a later date with that company.

MR. DICKINSON: What are those dates?

THE WITNESS: Not under this subpoena.

MR. SEVERANCE: They are under the other subpoena, are they not?

MR. DICKINSON: Was that a contract with the American Tin Plate Company, or the American Sheet & Tin Plate Company?

MR. SEVERANCE: It is the other company.

MR. DICKINSON: The American Tin Plate Company?

MR. LINDABURY: Yes; you are right. I did not want it to be passed by inadvertence, that is all, but I see now it is covered by the next subpoena.

MR. DICKINSON: Yes.

By MR. DICKINSON:

Q. I now question you with regard to the subpoena of the American Sheet & Tin Plate Company, which was commanded to produce an agreement between the American Sheet Steel Company and certain manufacturers of rolls entered into shortly after the formation of said company, whereby said company was to take their entire output for five years, together with all letters, papers, correspondence and memoranda relating to said agreement, or like agreement.

A. That refers to machinery and roll contracts, did you say?

MR. SEVERANCE: Let stenographer read the question.

(The question was read by the stenographer.)

A. I have no such papers.

Q. Would such papers be in your custody?

A. Yes, sir.

Q. Your immediate custody, or that of some of your subordinates?

A. In my personal custody.

Q. Have you in your custody any contracts of any period between the American Sheet Steel Company and any manufacturers of rolls, whereby the American Sheet Steel Company provides to take their output for any period of years?

A. No, sir.

Q. Have you made search for them?

A. I have.

Q. Where?

A. In the place where such contracts are kept.

Q. When did you search for them?

A. On receipt of this subpoena.

Q. Last Saturday, was that?

A. No; that one came a week ago last Friday.

Q. When did you begin the search under this subpoena?

A. Immediately on its receipt.

Q. How long a time did you devote to that?

A. Long enough to go through the boxes and files where those would be kept.

Q. Where were they kept, in boxes or files?

A. Those were kept in boxes.

Q. Where were the boxes kept?

A. In my office.

Q. What kind of boxes were they?

A. Tin boxes.

Q. How many boxes did you go through?

A. All that I had.

Q. How many were there?

A. Two.

Q. What period of time did they cover?

A. What?

Q. Those boxes, where you searched for these agreements that you have described?

A. I have had them for ten or twelve years.

Q. And had any of the papers of that character been destroyed at any time?

A. Yes, sir.

Q. They had been?

A. Yes, sir.

Q. How far back did the papers in those boxes go?

A. They contained only live matters.

Q. What would you call a live matter?

A. Anything that was active at the time.

Q. It was not controlled, then, by a question of time, but whether or not it was a matter yet to be carried out?

A. Yes, sir.

Q. What became of the contracts which had been executed and were not what you call live matter?

A. I destroyed them after they had become obsolete and useless.

Q. How long after that?

A. There was not any specific time.

Q. And if there were any papers of that sort they were destroyed, were they?

A. Yes.

Q. Have you any recollection that there were any papers of that sort?

A. Yes.

Q. There were such contracts, and they were destroyed?

A. There were some contracts and they were destroyed.

Q. Some contracts of that character?

A. Yes, sir.

MR. SEVERANCE: He does not attempt to state the contents of them.

MR. DICKINSON: I have not asked the contents. He says of that character.

MR. SEVERANCE: Your question almost implies it, Judge, "such contracts."

MR. DICKINSON: He cannot say he destroyed them unless he knew something about their character.

MR. SEVERANCE: He might know they were contracts for purchasing machinery from these companies without knowing their contents.

MR. DICKINSON: I will ask him.

By MR. DICKINSON:

Q. Whether or not there were any contracts between the American Sheet Steel Company and any makers of rolls and other machinery for any period of time, which had been in existence and which had been, at the time that you made this search, destroyed by you?

A. There had been such contracts; yes, sir.

Q. You were asked to produce a contract between the American Sheet & Tin Plate Company and the American Can Company, referred to in Finance Committee meeting of May 9, 1905, together with all other contracts whereby the American Can Company was given a concession with respect to

products purchased by it from the American Sheet & Tin Plate Company, or the American Sheet Steel Company from the formation of the American Sheet Steel Company to January, 11, 1912. Did you make any search for any contract of that sort?

A. That contract is in the possession of our attorneys.

MR. DICKINSON: You were asked to produce it. What position do you want to take about that, Mr. Lindabury?

MR. LINDABURY: The Company produces it. That is, the company has it here, but it declines to produce it in answer to the subpoena, on the ground that it is a contract with a customer for the disposal of the company's product simply, and is not relevant to the issue in this case, and to produce it would be simply to disclose the private business affairs of the company. That refusal, of course, however, is subject to the ruling of the Court, there being no official here competent to rule upon the evidence, defendants having no way of taking the ruling of the Court, except by refusing, until the Court has had opportunity to pass upon the question of the admissibility.

I will state that there are two such contracts, one of which is dated April 12, 1905, and the other December 1, 1908.

MR. DICKINSON: Do you have any objection to letting the record show that that matter can be taken up at a convenient time with the Court, not necessarily in connection with the examinaion of this witness.

MR. LINDABURY: We will be quite willing to agree with counsel as to the time of presenting it, and as other similar questions may arise, I suggest it might save the time of all of us to wait a little while so that we will not have to go to Philadelphia on a single question or objection.

MR. DICKINSON: So we will just agree to that and have it on the record.

MR. LINDABURY: Yes.

By MR. DICKINSON:

Q. I omitted to ask you, Mr. Wheeler, what you have to say with regard to the subpoena addressed to the American Sheet Steel Company to produce all papers, memoranda, correspondence, circular letters and documents sent out by Isaac

Frank or others concerned in the organization of the American Sheet Steel Company to various makers of sheet steel concerning the organization of the American Sheet Steel Company, together with all options and agreements made and entered into between the said Frank or other promoters of the American Sheet Steel Company and the concerns taken into said company.

A. We never had any papers of that character.

MR. DICKINSON: That is all for the present. We may want to recall Mr. Wheeler, but, of course, I will give you notice, and he need not continue in attendance.

CROSS EXAMINATION

By MR. BOLLING:

Q. Mr. Wheeler, is there any other officer of the Sheet & Tin Plate Company who has been an officer of the company as long as yourself?

A. Probably not as regards all the companies—both of them.

Q. There is no one who would be more likely to know what papers the company had than yourself, is there?

A. As to the character of papers to which I have testified, no.

Q. So that there was no one to whom you could appeal who would be more likely to be informed upon these matters than yourself?

A. There is no one to whom I could go for information of that character.

Q. You have spoken of these old agreements with the makers of tin plate and machinery and the makers of rolls. How long ago do you understand those agreements had become obsolete?

A. Very shortly after the formation of the Steel Corporation.

Q. That is nearly eleven years ago?

A. Approximately.

Q. Did you understand that they had any further usefulness whatever in the business of the company?

A. They were absolutely useless.

Q. Did you ever suppose that they would ever be needed for any other purpose, for any purposes of reference?

A. That idea had not arisen on the horizon at that time.

Q. No one ever asked you to see them in all those years?

A. They were never referred to.

Q. You did not suppose they would ever be needed in any court proceedings of any kind?

A. I never dreamed of it.

Q. When you go over your papers, has it been your custom to destroy or discard papers which your experience has shown have become obsolete?

A. It has been practically continuous ever since 1904.

Q. Was the occasion of your moving your office from New York City to Pittsburg the occasion which stands out most clearly for the putting of that practice into operation on a large scale—the clearing away of dead matter in your files?

A. That was an occasion when a great many of them came to light.

Q. And all those which were unearthed at that time and supposed to be useless were destroyed?

A. I discarded anything I felt would be of no further value.

Q. Would it be possible, within the reasonable bounds of any offices that your company has to retain every paper of every sort over a period of more than 12 years?

A. That depends on how many storage warehouses we might acquire for that purpose.

Q. It would take a large number of storage warehouses, then, would it not?

A. Yes, sir.

Q. And a considerable force of clerks to be able to find anything, after you got them into those storage warehouses, would it not?

A. And it is doubtful if they would find them then.

Q. You have produced, have you not, a number of papers called for by these subpoenas which Judge Dickinson has mentioned, because they have been turned over to them?

A. I do not understand.

Q. You have produced papers called for by the subpoenas,

not mentioned by Judge Dickinson, and turned them over to them, have you not?

A. Not that I know of.

Q. Papers on special brands?

A. I have not turned over any papers of that character.

Q. They were produced by the company?

A. Yes, sir.

MR. DICKINSON: Papers have been turned over by counsel to me.

MR. BOLLING: Those papers have been turned over to counsel.

MR. DICKINSON: Those described in there which I did not question him about. They were turned over by counsel to me.

MR. COLTON: With the exception of one that was not in existence.

MR. DICKINSON: The blank forms that were introduced, those were all that were turned over to me.

By MR. BOLLING:

Q. You have, then, produced everything you have which was called for by the subpoenas?

A. I have.

Q. Except those two contracts with the Can Company, to which reference was made?

A. Yes.

JOHN A. TOPPING,

called as a witness in behalf of the United States, being first duly sworn, testified as follows:

By MR. DICKINSON:

Q. Where do you live?

A. I live in Greenwich, Connecticut.

Q. What is your age?

A. Fifty-one.

Q. In what business are you engaged at present?

A. The steel business.

Q. In connection with what company or companies?

A. I am Chairman of the Republic Iron & Steel Company.

Q. Did you at any time have any connection with the Aetna Iron & Steel Company?

A. I did.

Q. In what capacity?

A. I was connected with the Aetna Iron & Steel Company from 1887 until the time of its absorption by the National Steel Company.

Q. By the American——

A. (Interposing.) By the National and the American Tin Plate Company.

Q. Did you have any connection with the Bellaire Company?

A. I had not.

Q. Were you a stockholder in the Aetna Iron & Steel Company?

A. I was.

Q. Did you have any connection with the American Sheet Steel Company upon its formation?

A. I had.

Q. Did you hold an official position, and if so, what was it?

A. Yes; first vice-president.

Q. How long did you continue to hold that office.

A. About three years, as I recollect.

Q. State what part you took, if any, in the formation of the American Sheet Steel Company?

A. None whatever.

Q. Who were the parties who were active in the formation of that company?

A. I have no direct knowledge as to who the promoters were, except that I happen to know a few, one or two——

Q. Name those.

A. Mr. Reid and Mr. Moore.

Q. Your company went into that company, did it?

A. It did.

Q. Did you get stock in that company for the stock which you had in the Aetna Company?

A. I personally took all my new interest in stock.

Q. What do you mean by new interests?

A. For the interests I sold I accepted stock in the new company, in exchange for my old stock.

Q. Please look at this book I hand you, a book entitled "The Iron & Steel Works of the United States; also of Canada and Mexico, 1898."

A. Is that Mr. J. H. Swank's book? I am familiar with it. I recognize the book.

Q. State whether or not that is recognized in the iron trade as a standard work.

A. It is.

Q. Is it accepted as authority for what it gives in the way such products are made by certain companies and where those companies are located and what the amount of their output is and so forth?

A. I think it is the only published record we have in which the companies are listed. It is known as an iron and steel directory of works. While the data contained in it are approximately correct, it is not necessarily entirely accurate in all its details.

Q. Is it accepted generally in the trade as an accurate work?

A. I think so, in a general way.

Q. Of course all publications are liable to have some errors in them, are they not?

A. It is the best record we have.

Q. It is a recognized standard, is it?

A. Of a directory character.

Q. I notice in the preface of the book it speaks of an association. It states that this edition is presented herewith to the members of the American Iron & Steel Association and to the whole American Iron trade. You understand what is referred to there as the American Iron & Steel Association?

A. I do.

Q. Please explain to us what it is.

A. The American Iron & Steel Association is nothing more than a statistical organization, that has been kept alive by the voluntary contributions on the part of manufacturers of iron and steel for a great many years, for the purpose of tabulating the production of different products.

Q. And this book is published under that auspices, is it?

A. No, not exactly. It is published by Mr. Swank, who

manages the work of compilation, and he gets his compensation out of the performance of that duty.

Q. From the members of the association?

A. Well, not directly, but indirectly he does, yes.

Q. I am simply trying to get at this point, Mr. Topping. Not that that is any unlawful association——

A. I understand perfectly——

Q. But simply that this was an association that contributed directly or indirectly to the bringing out of this work and it was recognized, therefore, as an authentic work for what it purported to be.

MR. LINDABURY: Is your object to credit or discredit the work?

MR. DICKINSON: I want to credit it.

MR. LINDABURY: We accept that. We agree it is authentic While there may be errors in it, we agree, as Mr. Topping says, it is an authority.

MR. DICKINSON: Oh, you do? Very well, then.

By MR. DICKINSON:

Q. Mr. Topping, state whether or not you know what products were made by the Apollo Iron & Steel Company, located in Pennsylvania, at the time of the formation of the American Sheet Steel Company?

A. Generally speaking, yes.

Q. State generally what they were?

A. Sheet steel.

Q. Where were those products generally sold?

A. Throughout the United States, I should say.

Q. Outside the State of Pennsylvania?

A. Decidedly.

Q. Take the Cambridge Iron & Steel Company, of Cambridge, Ohio; what did they make?

A. Sheet steel.

Q. Where were their products sold?

A. They were sold throughout the United States.

Q. State whether or not those two companies were in competition for that product in interstate commerce.

A. So far as they made common products.

Q. I mean, so far as they made common products.

A. Yes.

Q. And they did make common products?

A. Yes; to a certain extent.

Q. You understand I am speaking, now, as of the time when the American Sheet Steel Company was formed, and as prior to that?

A. Yes.

Q. I will ask you the same questions, without repeating them except to specify the products, in regard to the Canton Rolling Mill Company. What did they make?

A. They were competitors, in a sense.

Q. And they made sheet steel?

A. Yes, sir.

Q. And they were competitors in Interstate Commerce?

A. Yes.

Q. And sold outside of the State of Ohio, where they were in competition with these other companies?

A. They did.

Q. What else did the Canton Rolling Mill Company make?

A. I think they were manufacturers of corrugated iron and steel ceilings.

Q. Did any other of the concerns that came into the American Sheet Steel Company make those two?

A. Some did.

Q. Can you name some of them?

A. Our own company did, for one.

Q. That is the Aetna Company?

A. Yes.

Q. Suppose you look over that list.

A. The Cincinnati Rolling Mill and the Aetna Standard did.

Q. And these were in competition with each other, were they?

A. Yes; so far as they made common products.

Q. Take the Chartiers Iron & Steel Company, Carnegie, Pennsylvania. What did that company make?

A. They made steel, but rather a different product from that of some of the other plants. They made some common

sheets, but they were also engaged in manufacturing specialties to a greater extent, possibly, than the Cambria Works.

Q. Were any of these other companies engaged in manufacturing such specialties?

A. Some were. Some were not.

Q. Name some of those that were.

A. I could not tell you.

Q. You mean that you cannot recall from memory?

A. No, sir.

Q. If you saw their names would you be likely to recall them?

A. I do not know that my memory would be entirely correct in covering such a detail as that.

Q. Still, it may be as to some, when you look over that list on that page in the petition. Please look at page 13 in the petition and see if your recollection does enable you to recall any of them, and just state what they are.

A. I doubt if this will help me much.

Q. Just look at that page 13 of the original petition and tell us.

A. (After consulting the petition.) I think possibly Kirkpatrick & Company would be more nearly in the same line of product, as I would remember from my list.

Q. And were those two in competition with each other?

A. I would say so.

Q. In interstate business?

A. Yes, sir.

Q. The Corning Steel Company; what did that make?

A. I think their product was entirely common black sheets, rougher products.

Q. Did any of these other companies make any black sheets?

A. Some of them did. We did, in our company.

Q. Can you name any other companies that did?

A. Yes, sir; most of them did, except these few who were more particularly engaged in the manufacture of specialties.

Q. And in that product they were competitors in interstate commerce in this country?

A. Yes; to an extent.

Q. Take the Dennison Rolling Mill Company, Dennison, Ohio; what did they make?

A. Common sheets, as I remember it.

Q. And they were in competition with this Corning Company, then, were they, in common sheets?

A. Yes; to the extent that they sold in the Chicago market.

Q. And they did sell there, did they?

A. I do not know as to that, from any personal knowledge.

Q. You were an officer of this company, were you not?

A. The Dennison mill was not continued in operation very long after— I do not know whether it was or not when I was Vice-President of the Sheet Steel Company.

Q. To what company had the Dennison mill originally belonged?

A. I do not remember that.

Q. Was it shut down?

A. It was a very small operation, Mr. Dickinson, and I do not recollect, whether, after it was acquired, it was ever operated or not by the Sheet Steel Company. My best recollection is that it was not. It was poorly equipped and a badly located plant, I should say, from recollection.

Q. Was it a separate concern?

A. It was a separate company, yes, sir, a separate organization.

Q. It was a separate company acquired by the American Steel Company, and not operated?

A. I think so.

Q. The Dresden Iron & Steel Company of Dresden. What do you say about that?

A. It was about of the same general character as the one to which you have just referred, the Dennison.

Q. Was it operated?

A. I think it was for a brief time.

Q. Was that a separate concern?

A. Yes, a separate concern.

Q. A separate company?

A. Yes, sir.

Q. It was only operated for a brief time?

A. That is my recollection.

Q. Had that company been in competition with any of these other companies?

A. I would say yes, so long as it was operated.

Q. Which one?

A. Any of them making similar products.

Q. Some of them did make similar products, did they?

A. Some of them did.

MR. SEVERANCE: I am informed that the Dresden Company was operated as late as 1910.

THE WITNESS: I do not remember. I am speaking from my recollection.

By MR. DICKINSON:

Q. The Falcon Iron & Nail Company of Niles, Ohio. What did that company make?

A. They made tin plate and sheets.

Q. Tin plate and sheets, did you say?

A. Yes, sir; both.

Q. Were they in competition, in interstate commerce, with a number of these other companies in those products?

A. They were.

Q. Take the Hyde Park Iron & Steel Company, of Hyde Park, Pennsylvania. What did they make?

A. They made sheets, as I remember.

Q. Were they competitors of these other companies, some of them, in common products?

A. So far as other companies made similar products.

Q. In interstate commerce?

A. Yes.

Q. What did Kilpatrick & Company, Limited, of Leechburg, Pennsylvania, make?

MR. LINDABURY: We might admit that in so far as they made common products and sold in common territory that they were competing.

MR. DICKINSON: If you will admit that, it will save some time. I do not want to go out and get other witnesses to show where they sold. Unless there is a very substantial admission, I do not wish to leave the matter in that status.

MR. LINDABURY: Inasmuch as the usual hour for adjourn-

ment has arrived, suppose we discontinue this matter until to-morrow, and take it up then.

MR. DICKINSON: That is entirely satisfactory. I am not through with this witness. I will want you to-morrow morning.

(Whereupon, at 4 o'clock p. m., the hearing was adjourned until to-morrow, Wednesday, May 15, 1912, at 10:15 o'clock a. m.)

EIGHTH DAY.

ROOM 210, CUSTOM HOUSE,
NEW YORK CITY,

Wednesday, May 15, 1912.

The hearing was resumed at 10:15 o'clock a. m., before Special Examiner HENRY P. BROWN.

Appearances the same as heretofore noted.

JOHN A. TOPPING,

the witness under examination when the adjournment was taken, resumed the stand for further direct examination.

By MR. DICKINSON:

Q. Mr. Topping, I intended to ask you, towards the beginning of your examination, whether or not you are a stock holder in the United States Steel Corporation.

A. I am not. I have no interest whatever in it.

Q. I understand you want to make a correction in your testimony?

A. I misunderstood a question, yesterday, Mr. Dickinson, as between the Dennison and Dresden mills. I misunderstood it. I thought you referred to the Dennison mill when I said the Dresden mill had been wrecked. It was not wrecked as a matter of fact, during my administration, but was operating.

Q. How about the Dennison mill?

A. The Dennison mill was wrecked, to the best of my recollection; at least, it was not operating.

MR. LINDABURY: It was wrecked?

THE WITNESS: It was wrecked, or it may have been wrecked. I do not think it ever operated during my administration.

MR. LINDABURY: Do you mean wrecked in the sense of dismantled?

THE WITNESSS Yes. I used the word wrecked in the sense of dismantled.

By Mr. Dickinson:

Q. The result would be the same, would it not?

A. I think so. We wiped it off the map.

Q. I also intended to ask you, Mr. Topping, and I will now ask you whether or not you declined to give Government counsel any information before you were called as a witness, or to talk to them about this case?

A. I did.

Mr. Lindabury: I think he testified yesterday on that subject.

Mr. Dickinson: No. It was another witness who did. I did not ask Mr. Topping that.

By Mr. Dickinson:

Q. I did not ask you that, did I, yesterday, Mr. Topping?

A. You did not.

Q. I will ask you about P. H. Laufman & Company, Paulton, Pennsylvania; what products were made by that company?

A. Sheet steel.

Q. Where was that marketed?

A. I think very generally throughout the United States.

Q. Was it sold in interstate commerce in competition with these other companies that you have mentioned as making sheet steel?

A. It was.

Q. The time, you understand, is as of the time of the formation of the American Sheet Steel Company?

A. So far as it was in competition with common products.

Q. With respect to common products they were in competition at that time and had been previous thereto?

A. Yes, sir.

Q. How about Kirkpatrick & Company, of Leechburg, Pennsylvania? I believe I asked you about them, but we adjourned before you answered. What did they make?

A. They made sheet steel of a general character, and specially finished some of it.

Q. State whether or not your answer in respect to inter-

state competition would be the same with respect to that company?

A. I make the same general reply to that as in regard to the others.

Q. How about the Midland Steel Company, of Muncie, Indiana?

A. The same reply applies to them.

Q. That is to say, as to products and as to competition?

A. Yes.

Q. How about the Aetna Standard Iron & Steel Company of Bridgeport, Ohio?

A. So far as our products were common, we were competitors in a general way.

Q. What did that company make?

A. They made a very widely assorted line of products; tin plate, sheets, bar steel, light rails and small structural shapes, galvanized sheets, roofing products and steel.

Q. In respect to all of those products that you have named, was it in competition with some of those companies, one or more, that were combined in the American Sheet steel Company?

A. Yes; so far as the products were common, and in that sense competitive, yes.

Q. And some of these variously made the same products that this company made, did they?

A. Some of them did, yes.

Q. What did the New Philadelphia Iron & Sheet Company of Ohio make?

A. I think they made common sheets exclusively.

Q. State whether or not they were marketed in interstate commerce in competition with these other companies who made like products.

A. They were.

Q. And some of those companies made like products?

A. Yes.

Q. What did the Old Meadow Rolling Mill of Scottdale, Pennsylvania, make?

A. Common sheets, I think.

Q. And they were marketed in interstate commerce outside of the State of Pennsylvania?

A. Yes.

Q. In competition with others of the companies combined?

A. Yes.

Q. What did the Piqua Rolling Mill Company and roofing plant of Cincinnati Corrugating Company, Piqua, Ohio, make?

A. Black sheets and roofing products.

Q. And sold them generally in interstate commerce?

A. Yes.

Q. Outside of the State of their manufacture, in competition with other companies?

A. Yes.

Q. And there were other combined companies that made like products?

A. Yes; a few.

Q. What did the Pittsburg Steel Manufacturing Company of Shousetown, Ohio, make?

A. I do not remember much about their products. I think they had a very small plant and made common sheets only. That is my recollection.

Q. What did the Scottdale Iron & Steel Company of Scottdale, Pennsylvania, make?

A. Common sheets.

Q. And they were sold in interstate commerce outside of the State of Pennsylvania?

A. Yes, sir.

Q. In competition with others of these companies making like products?

A. Yes, sir.

Q. There were others of these companies making like products?

A. There were.

Q. What did the Struthers Iron & Steel Company, of Struthers, Ohio, make?

A. Common sheets.

Q. Sold in interstate commerce?

A. They were.

Q. Outside of the State of Ohio?

A. Yes, sir.

Q. And in competition with these other companies?

A. Yes, sir.

Q. What did the Chester Rolling Mill Company of Chester, West Virginia, make?

A. I think the Chester is a tin plate plant.

Q. You are not positive about it?

A. I am not positive as to that.

Q. I will pass that by, then.

Q. What did the Coshocton Rolling Mill Company of Coshocton, Ohio, make?

A. Black sheets; common sheets.

Q. They were sold in interstate commerce outside of the State of Ohio?

A. I think so.

Q. That is the best of your knowledge?

A. Yes.

Q. And in competition with these other companies, making like products?

A. Yes, sir.

Q. There were others of them making like products?

A. Yes, sir.

Q. What does the W. Dewees Wood Company of McKeesport, Pennsylvania, make?

A. Special products, almost exclusively.

Q. What do you mean by "special"?

A. Products that were not made by others.

Q. Do you mean to say that none of these other companies——

A. (Interrupting) I mean to say that in most of their products they had no competitors.

Q. Did they have competitors in any of their products?

A. I think they had in a small part of their output.

Q. They came in competition with some of these other Companies in the combination?

A. Yes, sir. Generally speaking we did not regard the W. Dewees Wood Company as competitors of ours.

Q. They did not make sheet iron and sheet steel?

A. Yes, but of a special finish and character, not made by other plants.

Q. But to some extent they were in competition with others that were combined in the American Sheet Steel Company?

A. I should say to a very limited extent.

Q. The Reeves Iron Company, of Ohio. What did that company make?

A. Common sheets.

Q. Black plates for tinning?

A. I think they made some black plates, also.

Q. Did they make sheet iron and steel?

A. Yes; more generally common black plates.

Q. And they sold it, did they not, in interstate commerce, outside of the state of manufacture?

A. They did.

Q. And in competition with others of those companies?

A. Yes, sir.

Q. What did the West Penn Sheet Steel Works, of Pennsylvania, make?

A. Black sheets.

Q. They were sold in interstate commerce?

A. Yes, sir.

Q. Outside of Pennsylvania?

A. Yes, sir.

Q. And in competition with others of the companies in the combination?

A. Yes, sir.

Q. Take the Saltsburg Rolling Mill Company of Pennsylvania: What did they make?

A. Common sheets, I think.

Q. Were they sold in interstate commerce outside of Pennsylvania?

A. I think so.

Q. And in competition with others of the companies in this combination?

A. Yes, sir.

Q. Were you, or were you not, connected wth the La Belle Iron Works?

A. I was.

Q. At what period?

A. In 1904 I was elected as president.

Q. How long did you stay with that company?

A. I was elected in the latter part of 1903, I think, on second thought, I was with them for about a year, assisting in the reorganization.

Q. You were with them from some time in 1903, for about a year thereafter?

A. The latter part of 1903 or the early part of 1904.

Q. What kind of mills did the Aetna Standard Iron & Steel Company have at Bridgeport?

A. Blast furnaces and steel works.

Q. Black plate mills?

A. And tin plate mills.

Q. Did they not have black plate mills?

A. Yes, sir; bar mills, plate mills and sheet mills. We also had what we called our roofing department and the galvanizing department.

Q. Please state whether or not you had there a mill that had been formerly operated as a sheet mill, which was turned into a tin plate mill?

A. No, hardly that. We converted a sheet mill into a tin mill for experimental purposes, and afterwards built a tin department and added a tin mill. That was during the early period of experimentation in the manufacture of tin plate.

Q. What is the comparative cost of converting a sheet mill into a tin mill? That is to say, what change in equipment is involved?

A. It means a modification of your furnace and a shortening up of your mill generally and an additional tin house, and a dipping plant; quite a material change.

Q. Does that involve a large expense?

A. Quite a large amount.

Q. And much time?

A. Naturally so.

Q. It can be done, however, with a good deal of saving of original machinery and equipment, can it not?

A. No, sir; it cannot. There is not very much economy as a general proposition in working over any old machinery and converting it to a new use.

Q. State whether or not the Aetna Standard Iron Company owned and operated works at Mingo Junction?

A. They did.

Q. What were the products which they produced there?

A. Steel, pig iron, sheet bars, bar steel, merchant bar steel.

Q. What connection did you have, if any, Mr. Topping, with the American Steel Hoop Company?

A. I had none.

Q. Were you a stockholder in that company?

A. I was not.

Q. Did any of the concerns in which you had been interested, or with which you were connected, go into that company?

A. No, sir.

Q. I will ask you whether or not the works of the Aetna Standard Iron & Steel Company, which were at Mingo Junction, and to which we have just referred, were taken over by the American Steel Hoop Company?

A. Our property was sold, Mr. Dickinson, to the American Tin Plate Company and the National Steel Company.

Q. When was that?

A. In the period of 1900, during the consolidation period.

Q. When you were with the Aetna Standard Iron & Steel Company were you or were you not familiar with the trade and competition in respect of the products that were manufactured at these junction works?

A. I was.

Q. Did you know anything of the Union Iron & Steel Company, at Youngstown, Ohio?

A. I did.

Q. What did that company make?

A. Bar steel and bar iron.

Q. Did you know the Isabella Furnace Company?

A. I knew of them in a general way; yes, sir.

Q. What were their products?

A. Pig iron.

Q. Where did the Union Iron & Steel Company sell its products?

A. Throughout the United States.

Q. Generally in the trade outside the State of manufacture?

A. Yes, sir.

Q. State whether or not the Isabella furnace made some products like those made by the Union Iron & Steel Company?

A. I do not think they did, sir. One was a blast furnace

and the other was a rolling mill. There could not have been anything in common.

Q. What did the Isabella Furnace make?

A. Pig iron only.

Q. Did you know the concern of J. Painter & Sons, of Pittsburg?

A. I did.

Q. What did that company make?

A. Hoops and bends almost exclusively.

Q. Did you know the William Clark & Sons Company, Pittsburg?

A. I did.

Q. What did they make?

A. The same products.

Q. State whether or not those two companies marketed their products generally in interstate commerce?

A. Yes, sir.

Q. In competition with each other?

A. Yes, sir.

Q. And outside of the state of their manufacture?

A. Yes, sir.

Q. What did the Lindsay & McCutcheon Company, of Pennsylvania make?

A. The same character of products.

Q. As those other two companies?

A. Yes, sir.

Q. Were they in competition with each other in interstate commerce?

A. They were.

Q. And outside of the state of their manufacture?

A. Yes, sir.

Q. What did the Keystone Rolling Mill Company of Pittsburg make?

A. I do not know anything about their product.

Q. What did the P. L. Kimberly Company, of Pennsylvania make?

A. Bar iron exclusively.

Q. Did they not make hoops and wrought iron nails?

A. I do not think they formerly made nails: latterly they did. They are a very old concern. Their product was almost

exclusively bar iron, but I do think they made some light bands with which we occasionally came in contact.

Q. You stated that the Union Iron & Steel Company made bar iron also.

A. I did.

Q. Were these companies in competition in interstate commerce in that business?

A. They were to that extent.

Q. What did the Pomeroy Iron & Steel Company of Ohio make?

A. That is Pomeroy, Ohio. It is a little iron mill down the Ohio River.

Q. What did it make?

A. Common bar iron.

Q. Hoops?

A. I think not.

Q. Do you know whether it made bands, or cotton ties?

A. I am mistaken about that. They made light bands and cotton ties.

Q. Were they in any respect in competition with any of these other companies that you have named?

A. To a limited extent only, I think.

Q. That is to say, to the extent that they made common products?

A. Most of the products were marketed down in the southern district.

Q. You mean south of Ohio?

A. Yes, sir; I think so; on the Ohio River.

Q. Cotton ties were generally marketed south of the Ohio River, were they not?

A. Naturally so.

Q. So these other concerns that were making cotton ties were in competition with this company?

A. Yes, sir; to a certain extent. The Union Iron & Steel Company, I believe, was the only one of the companies you have previously mentioned that made cotton ties, and at that time they owned the Pomeroy plant?

Q. Owned the Pomeroy plant?

A. The same interests; that is my recollection.

Q. Are you positive about that?

A. I feel reasonably certain that that is the fact, because I knew the gentlemen who owned the plant.

Q. Who was the President of the Pomeroy Company?

A. I do not know that they had a president. The Taylor interests, of Youngstown, according to my recollection, were the owners of those properties. They had a small corporation. I do not remember who was the President. William E. Taylor was the active man in charge of directing sales, I remember, at that time.

Q. What did the Portage Iron Company, of Pennsylvania make?

A. I do not know very much about it. I think they were an iron mill.

Q. Do you know whether they made steel bars?

A. I do not.

Q. Cotton ties?

A. I do not know.

Q. Do you know whether they made wire rods and wire nails?

A. I would not think so.

Q. How about the Monessen Steel Company, of Pennsylvania, what did that company make?

MR. LINDABURY: Mahoning, you mean?

MR. DICKINSON: No; Monessen.

MR. LINDABURY: Oh yes, the one that you passed?

MR. DICKINSON: Yes.

A. Why, the Monessen plant made tin plate alone, as I recall it; I do not think they made any black plate.

By MR. DICKINSON:

Q. You do not know what they made?

A. I should say tin plate, to the best of my recollection.

Q. You do not know whether they made hoops or not?

A. I do not think they did. There is, however, at Monessen, as I remember, a little mill making hoops, that belongs to the Pittsburg Steel Company; but that is not the plant to which you referred, is it?

Q. No; that is not the one I am asking you about.

A. I thought not.

Q. Did or did not the Aetna Standard Iron & Steel Company have a steel department which had formerly been operated by the Mingo Junction Steel Company?

A. By the Mingo.

Q. What were the products of that company?

A. Billets and sheet bars.

Q. And blooms?

A. Yes.

Q. State whether or not it was building another mill at the time it was taken over?

A. It had completed its construction substantially at the time it was taken over.

Q. How long had it been completed?

A. Well, we were a year and a half—we bought the Mingo Junction Works and rebuilt the Bessemer plant, reconstructed the sheet bar mill and billet mill, and generally overhauled the entire plant, and that work was substantially completed at the time the National Steel Company acquired it.

Q. And all that property was acquired by the National Steel Company?

A. By the National Steel Company; yes, sir.

Q. State, Mr. Topping, whether or not in the sale of such products, that is, slabs and billets, there was competition between the Aetna Iron & Steel Company——

A. Aetna Standard Iron & Steel Company, you mean?

Q. Yes; and the Illinois Steel Company.

A. Not to any extent, no sir, because we did not sell our products in the Chicago market.

Q. But you were selling it outside of the state of manufacture?

A. Most of our products were sold in the Ohio, Pennsylvania, and West Virginia districts.

Q. State whether or not the Illinois Steel Company sold in Ohio?

A. I do not know; I was not in competition with them.

Q. You were not in competition with them?

A. No, sir.

Q. State whether or not the Carnegie Company sold in the same territory in which your company sold?

A. They did.

Q. Were they competitors in the products that you have mentioned?

A. Yes, sir.

Q. In interstate commerce generally in the same territory where you sold?

A. Yes.

Q. Outside the State of Pennsylvania?

A. Yes.

Q. Outside the State of Ohio?

A. Yes, sir.

Q. How about the Lorain Company? State whether or not they were competitors of your company, at the time it was taken over by the National Steel Company.

A. To a limited extent, yes, sir.

Q. Did you say that you continued with the National Steel Company or not?

A. I was the president of the company at the time of the sale and operated the plant about a year after they acquired it.

Q. State whether or not, during the time you were with the National Steel Company, this competition of which you have spoken in interstate commerce between the Aetna Iron & Steel Company and the Carnegie Company and the Lorain Company continued in the same respect between the National Steel Company and the Carnegie Company and the Lorain Company.

A. It did.

Q. After you left the National Steel Company, where did you go?

A. I was elected first vice-president of the Sheet Steel Company.

Q. You still kept in touch with the business, did you, and continued to have a knowledge of the business?

A. I hope so.

Q. I have no doubt you did, or you would not be where you are now. State whether or not, after the formation of the United States Steel Corporation in 1901, there was competition between the National Steel Company and the Carnegie Company, and, if so, in what respects.

A. I should say there was limited competition.

Q. There was competition?

A. Limited competition, I say.

Q. That is a very vague word.

A. Perhaps I can explain. I will try to make it clear.

Q. I wish you would.

A. I say limited. You will remember there was formed the Steel Hoop and the American Sheet Steel. The formation of those companies, as I understood it at the time intended, was to balance up National Steel so as to make it more nearly self-sustaining. In other words, the National Steel was the raw producing steel company to supply the crude material to the Sheet Steel and the Steel Hoop and the Tin Plate Companies. Consequently it did not have much in excess in the way billets to sell in the open market in competition with anybody.

Q. State whether or not at the time prior to its acquirement by the United States Corporation it did sell billets at times in the open market?

A. I believe I have stated that. Prior to the formation of the Steel Corporation it did sell.

Q. From time to time?

A. Yes, it sold some steel for a period, I believe.

Q. In competition with the Carnegie Company?

A. Yes, sir.

Q. And in competition with the Lorain Company?

A. Yes, sir.

Q. And interstate competition, about which we are talking?

A. Yes. That was for a very limited period.

Q. Do you know whether or not the National Steel Company, between the time of its formation and the time of its acquirement by the United States Steel Corporation, manufactured any rails?

A. I do not. I would say not, however, to the best of my recollection.

Q. Mr. Topping, state whether or not you were a member of a syndicate which procured an interest in the stock of the Tennessee Coal & Iron Company?

A. I was.

Q. State whether or not that interest was a controlling one.

A. The interest in which I participated was a controlling one, yes.

Q. That is, it acquired a majority of the stock of that company?

A. Yes, sir.

Q. Name your associates in that syndicate. I believe it was called a syndicate, was it not?

A. I do not think I can from memory. There were quite a number of them.

Q. Name such as you can.

A. The principal members of it were L. C. Hanna; G. B. Schley; J. B. Duke; E. W. Oglebay; John W. Gates; Mr. O. H. Payne, of Cleveland; I believe that is his name.

Q. Did you mention Mr. Thorne?

A. I did not mention Mr. Oakleigh Thorne, but he was a member, and there were quite a number of others.

Q. Did you mention Mr. Gates?

A. I did. Those were some of the more prominent members.

Q. State whether or not before you went into that purchase you made any sort of investigation or examination or inquiry, or informed yourself as to the values of the property and the character of the venture upon which you were entering.

A. Personally I did not; but I saw reports of the mineral properties prepared by engineers, and I had a general knowledge from the reports of my associates, in whom I had confidence, as to what they had, and of what the property consisted.

Q. You mean by not having personal knowledge that you did not go on the property and make an examination?

A. Not at the time I took an interest in the property, no, sir.

Q. State what was your purpose in going into that with respect to selling the property on a speculation or developing it?

MR. LINDABURY: Objected to as irrelevant.

A. For the purpose of developing.

By Mr. Dickinson:

Q. For the purpose of developing the property?

A. For the purpose of developing. Of course with the idea of making money out of it.

Q. But not with the idea of at once marketing the property?

A. No, sir.

Q. State whether or not any of these men that you have mentioned as having been associated in the matter had had general experience in iron and steel lines.

A. Only three of them, so far as I know.

Q. Some of them had.

A. Yes, sir.

Q. Who were they?

A. Mr. Gates, Mr. Oglebay, and Mr. Hanna.

Q. Had Mr. Oglebay been in the iron business?

A. Yes, sir.

Q. For some length of time?

A. He had been in the iron ore business for a great many years and had been for a number of years rather intimately connected with the steel and iron business of the Wheeling district.

Q. Take Mr. Hanna. Had he or had he not been in the iron ore business?

A. The iron ore and blast furnace business, and coal.

Q. The transportation of iron ore?

A. Yes.

Q. And iron?

A. Iron—pig iron.

Q. Some of these men were practical men in that line of business, were they?

A. In what sense are you using the word "practical"? Do you mean technically so?

Q. I mean men who had had experience in those classes of properties.

A. If you use it in the sense of general experience, yes.

Q. That is the sense in which I am using it. I do not mean men who actually operated the furnaces.

A. That is what I wanted to get clear.

Q. Of what character of men were the others in respect to that business?

A. Some of them were professional men.

Q. Were some of them bankers?

A. Some were bankers.

Q. And some business men?

A. Some manufacturers and business men as a type, as a rule.

Q. What was the standing of these men at that time, down to 1907, generally, in the business world? Was it good or not?

MR. LINDABURY: Objected to as irrelevant.

By MR. DICKINSON:

Q. Just answer the question, Mr. Topping.

A. Their standing was high, so far as I ever had any knowledge of their standing in the business world.

Q. State whether or not they had a reputation of being successful men and men of financial strength.

MR. LINDABURY: The same objection.

A. That was their general reputation, to the best of my knowledge.

By MR. DICKINSON:

Q. Was that one of the considerations that had an influence with you in forming this association?

MR. LINDABURY: I note the same objection.

A. No, sir; it was not.

By MR. DICKINSON:

Q. Would you or would you not have gone into a syndicate of that sort with men who had the reputation of being financially weak?

A. I certainly would not, but I did not go in because they had that standing.

Q. I did not say "because." I asked whether that entered into it as one of the considerations.

A. I beg your pardon. I did not understand your question. Naturally it did.

Q. At the time, or about the time, Mr. Topping, that this syndicate was formed, what would you say would be a fair estimate of the difference in cost of producing a ton of pig iron at Pittsburg and a ton of pig iron at Birmingham, by the Tennessee Coal, Iron & Railroad Company?

MR. LINDABURY: That is objected to because it does not appear that the witness had expert knowledge on that particular subject.

By MR. DICKINSON:

Q. Can you answer that question?

A. You would have to put that question, Mr. Dickinson, rather more specifically, in order that I might reply to it properly. There is a vast difference in the different characters and kinds of pig iron. If you are making foundry iron and comparing the cost of foundry iron with Bessemer, or if you are comparing it with basic pig, it would be a very difficult——

Q. (Interrupting.) I did not hear the last part of your reply.

A. I cannot answer that question specifically as you put it, because you would be comparing possibly foundry iron with Bessemer pig iron or with basic pig iron.

Q. Did or did not the Tennessee Coal, Iron & Railroad Company sell any iron north of the Ohio River?

A. It did.

Q. Was, or was not, that iron sold in competition with iron made north of the Ohio River?

A. It was to the extent that we competed in our sales of foundry iron with other foundry furnaces, and where we sold basic iron for steel-making purposes it competed with that basic steel-making iron.

Q. There was competition between foundry iron and basic iron?

A. I am only trying to make clear to your mind that basic did not compete with foundry, and that foundry did not compete with basic.

Q. But foundry iron does compete with foundry iron?
A. Yes, sir.
Q. And basic with basic iron.
A. That is quite right.
Q. Taking the two kinds you have spoken of as competitors, I will first ask you about the foundry iron. What would be the difference in cost at that time, of producing a ton of foundry iron at Birmingham, with such properties as the Tennessee Coal, Iron & Railroad Company had, and their locations in respect to these several properties, as compared with the cost of producing that generally prevailed north of the Ohio River?

MR. LINDABURY: That is objected to because it does not appear that the witness had expert knowledge on that particular subject.

A. I can answer that question only in this way. I can tell you approximately the difference in cost that exists in our own furnaces north and south.

By MR. DICKINSON:

Q. Answer that, please.

MR. LINDABURY: That is objected to as irrelevant.

A. About $3.50 a ton. It would vary somewhat from $3 to $3.50.

By MR. DICKINSON:

Q. Mr. Topping, what was the reason of that difference in cost? Please explain that.
A. There are a great many things entering into it.
Q. What are the main elements?
A. The principal elements would be the reduced cost of assembling raw materials for conversion.
Q. Take the foundry iron produced north of the Ohio River. From what sources were those elements assembled?
A. From the Lake region.
Q. That is, the iron ore was brought from the Lake region.
A. Yes, sir.
Q. What was the distance?

A. I do not know that I can tell you accurately.

Q. Not accurately, but approximately.

A. I could express it better in freight rates.

Q. Express it that way, if you will, then.

A. The freight rate would be, to most of the districts in the north, an average of about $2.20, roughly, as a general statement of freight, or the cost of assembling iron ore from the north to the furnace districts of Ohio and Pennsylvania.

Q. Are you speaking of all the elements or just the one element of ore?

A. I am speaking about ore.

Q. What would the corresponding freight rate be in the Birmingham district?

A. About 12½ cents a ton.

Q. That is 12½ cents a ton against how much, did you say?

A. $2.20. That is based on the old freight rate of 80 cents, and 60 cents by water, and about 85 from the lower lake ports to the point of consumption. That would make $2.25. Correct that figure to read $2.25.

Q. You mean, on the rate that was in existence up to a recent change, which was made a few months ago?

A. Yes, sir.

Q. Up to what time approximately had the rate of which you speak existed?

A. It existed up until the opening of navigation this year.

Q. At that time the change was made?

A. Yes, sir.

Q. How long prior to that had these relative rates existed?

A. I do not know. I think they had existed for a great many years.

Q. At any rate, had they existed at the time you purchased your interest in the Tennessee Coal, Iron & Railroad Company?

A. They were substantially as they are today, I believe, with the exception of this last change.

Q. Did they exist substantially the same at the time the Tennessee Coal, Iron & Railroad Company was taken over by the United States Steel Corporation?

A. That is my best recollection.

Q. You have given this difference in freight rates as being

one of the controlling elements. State whether or not the reason for that difference was the distance of the furnace from the sources of supply in respect to the two districts?

A. It was.

Q. As to the Tennessee Coal, Iron & Railroad Company, how far was the average haul, if you can answer that, of the ore to the furnace?

A. The mines were located at different distances from the Ensley plants.

Q. What was the maximum haul, about?

A. All their operations, I should say, were within the 25-mile limit; probably 10 or 12 miles would represent somewhere near an average, as a rough approximation.

Q. That applied to their coal supply?

A. Yes, sir, and limestone and everything.

Q. The limestone, too?

A. Yes.

Q. What about coke?

A. Naturally the coke would be in the district of the coal production?

Q. So the ore, coal, limestone and coke, are the principal elements that go into the making of the iron?

A. Naturally.

Q. I mean as far as the elements are concerned?

A. Practically so.

Q. And they were all within a radius of 20 miles?

A. Or less.

Q. I will ask you, Mr. Topping, whether or not in any other section of the United States, as far as you know, the same advantages prevail as prevail there in respect to the juxtaposition of the elements which go into the products of iron?

A. Not that I know of.

Q. State whether or not, Mr. Topping, in the Birmingham district, at the time you purchased this property, and at the time the Tennessee Coal, Iron & Railroad Company was acquired by the United States Steel Corporation, iron could be made there more cheaply than at any other part of the United States. I mean foundry iron and basic iron.

A. I doubt if that is so.

Q. In what other part of the United States could it be made more cheaply than in the Birmingham district?

A. It depends with whom you make your comparison.

Q. If you have any knowledge of any section of the country where it could have been made more cheaply at those periods than it was made by the Tennessee Coal, Iron & Railroad Company, please state where it was.

A. I doubt if it has been made any cheaper than it has been made in Chicago by the Corporation's furnaces.

Q. When were those furnaces established?

A. Oh, years ago, the old Illinois furnaces.

Q. Four years ago?

A. I say they were established years ago.

Q. I beg your pardon. I thought you said four years ago.

A. Years ago.

Q. What furnaces were those?

A. Their South Works furnaces; I do not know how they designate them, whether by number or alphabetically.

Q. By whom were they owned?

A. Formerly by the Illinois Steel Company?

Q. Where do they get their ore?

A. From the lake region.

Q. Where do they get their coke?

A. They are making their own coke on the ground at the present time, I think.

Q. No; I mean in 1907.

A. I think Connellsville, and probably some from the Pocahontas district.

Q. Where do they get their limestone?

A. That I do not know.

Q. Do you say, Mr. Topping, that in 1907 at that mill, with the transportation for those distances, they were making foundry iron——

A. They do not make foundry iron at all.

Q. What iron were they making, basic iron?

A. Steel—making iron.

Q. Basic?

A. Bessemer and basic.

Q. The Tennessee Coal, Iron & Railroad Company did not make Bessemer, did they?

A. No; they made basic.

Q. Was this company at that time making basic iron more cheaply than the Tennessee Company was making it?

A. I would not be surprised if they were making it as cheaply.

Q. Have you ever seen the cost sheets at which this Illinois company was making?

A. I have not.

Q. Now state what it cost them to make basic iron in 1907. Do you know?

A. I do not remember.

Q. You do not remember?

A. I do not.

Q. Do you know any other place in the United States where basic iron or foundry iron could be made approximately as cheaply as in the Birmingham district?

A. Outside of the Corporation I should say not.

Q. Outside of the Corporation—what do you mean by that?

A. Outside of the Steel Corporation.

Q. Do you mean to say that at other points, besides the one that you have mentioned in Illinois, the Steel Corporation in 1907 was making basic iron more cheaply than it could be made in the Birmingham district?

A. I said I should be surprised if they were not.

Q. You would be surprised if they were not?

A. Yes.

Q. Are you willing to say as a matter of fact that they were?

A. I stated a minute ago I did not know what their costs were at that time; I do not remember; but I have seen their cost sheets.

Q. You cannot state?

A. I did not state that.

MR. LINDABURY: You are unintentionally leading. You asked for his expert judgment as to whether it could be made anywhere else as cheaply as at Birmingham, and he said, yes, he thinks it could.

MR. DICKINSON: I am asking him for his knowledge.

MR. LINDABURY: But you were asking him for his opinion, and now you are cross-examining him as if he had testified to his knowledge.

MR. DICKINSON: That is perfectly legitimate.

MR. LINDABURY: That is not fair to him.

MR. DICKINSON: I mean to be fair to him.

MR. LINDABURY: You do not mean to be unfair; but I say he answered according to his opinion and you are now going upon the theory that he answered from knowledge.

THE WITNESS: That is what I was doing.

By MR. DICKINSON:

Q. How is that?

A. I understood your question to ask for my opinion. I told you definitely I did not have the exact knowledge of the costs, although I had seen the cost sheets.

Q. You have seen them?

A. As president of the other company, we naturally exchanged cost information, but I do not remember what the cost was.

Q. Did you exchange cost information in 1907?

A. I was not president in 1907.

Q. Well, did you see cost sheets of 1907 of the United States Steel Corporation?

A. I think I did.

Q. Who showed them to you?

A. I do not remember.

Q. Where did you see them?

A. In my own office.

Q. By whom were they furnished?

A. I do not know. We sometimes get information from each other that we do not know about.

Q. What do you mean by that?

A. I mean to say our various employees are exchanging notes with other employees and bringing us information from our competitors. In that way we get information. That is our business.

MR. LINDABURY: A branch of it.

THE WITNESS: To find out what our competitor is doing.

By Mr. Dickinson:

Q. What was the financial condition of the Tennessee Coal, Iron & Railroad Company as to solvency at the time it was taken over by the Steel Corporation?

A. I regarded it as solvent.

Q. At the end of December, 1906, what were the net profits of that company for dividend purposes?

A. I could not say accurately or definitely, but I should say about a million and a half approximately, as I remember it: perhaps less.

Q. What was their net working capital? Had you finished?

A. I had.

Q. I do not mean to interrupt you at any time, sir.

A. No, sir.

Q. What was their net working capital over and above their current liabilities?

A. At the time of the sale of the property?

Q. Yes.

A. Something like two million, I think; but in that statement, I did not take into account contingent liability of unfinished contracts. As against that we had unpaid subscriptions for capital stock that had been subscribed that would have more than offset the unpaid balance against construction contracts; but in making that statement as to the net working assets it is customary never to set contracts out as a fixed liability, but they are considered a contingent liabi

Q. The contracts were usually on a profitable basis, were they not?

A. Construction contracts could not be construed as a profitable contract until you realized on the construction.

Q. You mean the contracts you had for building?

A. Yes. I am only stating the contracts were considered a contingent liability and not included in that two million net assets, and were offset by unpaid subscriptions for capital stock.

Q. Offset that liability?

A. Yes, sir; substantially so.

Q. Substantially so, and that left the surplus of which you speak?

A. Yes.

Q. Did you take charge of this plant upon the formation of the syndicate and the purchase?

A. I did.

Q. In what position?

A. I was chairman of the company and its chief executive officer.

Q. State whether or not you began to improve the property at once.

A. We did, after a reasonable length of time.

Q. State generally, Mr. Topping, what changes you made in the property and what was their character in respect to the promotion of efficiency.

A. Rebuilding the steelplants, reconstructing the furnaces in part—not the entire group—but I think there were three of them reconstructed; rearranging the yards; reconstructing the Birmingham Southern Railroad, changing the grade and curves and bridges; rebuilding the rail mill and the rail-finishing department; general rehabilitation of the property.

Q. General rehabilitation and putting it in an efficient condition?

A. To the extent that we had appropriated money for that work. But that was only a partial rehabilitation because the job was not complete.

Q. At the time you parted with it?

A. No, sir.

Q. It was in process, however, of being done?

A. In process.

Q. From the time the syndicate acquired this property, to the time it was acquired by the United States Steel Corporation, state approximately how much had been spent in improving the property?

A. I should say approximately $8,000,000.

Q. How had that money been raised?

A. By stock subscription.

Q. Among the existing stockholders?

A. Yes, sir.

Q. By an increase of the stock?

A. An increase of the stock, selling it at par.

Q. At the time the syndicate purchased it, what was the amount of the stock?

A. $29,500,000, I think.

Q. I will ask you to refresh your memory and state whether or not it was not about twenty or twenty-two million dollars at that time?

A. At the time of sale?

Q. No, at the time the syndicate purchased it.

A. Yes, sir; I think that is right. I misunderstood your question.

Q. And then at the time you parted with it by subscription it had been brought up to $29,000,000?

A. $29,000,000.

Q. And the difference in the stock had been paid in at par?

A. Yes.

Q. And had been expended in betterments and improvements?

A. Absolutely, every dollar.

Q. You produced at the hearing before the Stanley Committee a statement of the last fiscal year of your operations. Will you file as a part of your statement in this case, a copy of that, unless Mr. Lindabury is willing to verify this and put it in.

MR. LINDABURY: I did not hear you, as I was reading something.

MR. DICKINSON: I asked whether he might put in as a part of his testimony a part of his deposition in the Stanley Committee hearing, a statement of the last fiscal year of the operations of the Tennessee Coal, Iron & R. R. Company.

THE WITNESS: No; that is not that statement——

MR. DICKINSON: You say it is not a statement?

THE WITNESS: Not of that character. A representation as to the condition of the property, as a basis for the purchase or sale.

MR. LINDABURY: What page is that?

MR. DICKINSON: Page 1230 of the Stanley Committee hearings. It is headed here "Tennessee Coal, Iron & Railroad Company. Condensed balance sheet and income account as of September 30, 1907."

THE WITNESS: That is true. That is the basis on which the sale of the property was made.

MR. DICKINSON: What I want to do is to make that a part of your testimony here. We can do that, Mr. Lindabury, either by agreement, or I can have Mr. Topping recalled, and have him file a statement. Are you willing for him to examine this and see if it is correct.

MR. LINDABURY: I have no objection to his examining it. I want to see what he said about it. I did not know you were going to examine him on this subject, and consequently I have not had the time to read up his testimony.

MR. DICKINSON: I did not want to call him twice.

MR. LINDABURY: I understand. That is simply my apology for not knowing to what he testified.

MR. DICKINSON: We have subpoenaed the document, but if we could get it this way, it would be less trouble for all parties.

MR. LINDABURY: I understand from his evidence that this statement was submitted to the purchasers at the time of the sale.

THE WITNESS: As the basis of a representation I made to the purchasers as to its condition at the time, substantially its condition at the time the property was sold and the stock acquired. I think this statement is substantially correct.

MR. LINDABURY: You submitted this to Mr. Ledyard?

THE WITNESS: I did not submit it to Mr. Ledyard. It was submitted to Judge Gary as a basis on which the property was valued.

MR. LINDABURY: What I am interested in knowing is whether or not you submitted this, no matter for what cause, or with what object, to any of those gentlemen at the time the purchase was made?

THE WITNESS: I did not.

MR. LINDABURY: Pending the negotiations?

THE WITNESS: I did not.

MR. LINDABURY: When was it you did it?

THE WITNESS: When the property was under negotiation with the Steel Corporation.

MR. DICKINSON: That is what you mean, is it not?

MR. LINDABURY: That is what I mean. At the time the purchase was made.

THE WITNESS: Oh, I beg your pardon. Mr. Ledyard did

not have anything to do with it, because he did not participate in this deal.

MR. LINDABURY: I do not care who it was, if it was someone of the persons you were dealing with at the time.

THE WITNESS: Yes; that is right.

MR. LINDABURY: I did not quite get your question.

MR. DICKINSON: I do not see any reason, if he says this is correct, why it should not go in as part of his testimony.

THE WITNESS: I think it is exactly correct, except I see one thing. I see the bond obligation of the company is not listed in that statement, the outstanding bonds. It looks like a clerical omission, but so far as I remember the statement, it is correct.

MR. LINDABURY: Let the witness correct it. Put it in, with the correction you desire to make.

THE WITNESS: My recollection is that there were $14,500,000 of outstanding bonds at that time.

By MR. DICKINSON:

Q. $14,500,000 of outstanding bonds?

A. Yes. With what exception I think it is substantially correct.

MR. LINDABURY: Let us have an understanding about this, and I will ask the stenographer not to take it down.

(Informal conference between counsel followed.)

By MR. DICKINSON:

Q. State whether or not you submitted at the Stanley hearing a statement of the Tennessee Coal, Iron & Railroad Company, condensed balance sheet and income account, as of September 30, 1907?

A. I did.

Q. And you have examined pages 1230 and 1231 of the record of the Stanley Committee hearing, where this statement purports to be printed?

A. Yes.

Q. Is there or is there not an error in the tabulation of that statement?

A. It is correct with the exception of the omission of the outstanding bonds, to the amount of $14,532,000, I believe.

Q. That appears to be a misprint?

MR. LINDABURY: Not a misprint, but an omission.

A. It is an omission.

Q. That is an omission?

A. Yes, because my statement covered that completely.

MR. LINDABURY: Would you mind letting him say that this inclusion is necessary to make the footing correct?

By MR. DICKINSON:

Q. Yes, I want to ask you that question. On page 1231, after putting the $14,562,000 under the item, "bonded debt", would that make the footing $52,366,874.06, as it appears on page 1231?

A. It would appear so, yes, sir.

Q. Did you or did you not give this statement to Mr. Gary?

A. I think I handed it to Mr. Filbert.

Q. I understood you to say a while ago that you gave it to Mr. Gary.

A. I did say that, referring to him as the Corporation; but I think Mr. Filbert took charge of the details. He was present. Mr. Filbert was the comptroller, and he would naturally take a statement of that kind.

Q. This statement, with the correction you have made, is a correct representation of the condition of the company at that time, is it?

A. To the best of my knowledge and belief, yes.

Q. You would not have presented it that way unless you had confidence in it?

A. It was accepted as a basis for the settlement, and there were no charges, debits or credits, made against it in the transfer of the property.

Q. You believed it was substantially correct?

A. It was thereafter verified and substantially accepted.

MR. DICKINSON: Instead of producing the original statement, the stenographer may copy the statement as it appears on pages 1230 and 1231 of the record of the Stanley Committee hearings. Let us have that agreed, that he may have that

copied, supplying the omission of the bonded indebtedness, and subject to correction by either side.

MR. LINDABURY: That is agreed.

MR. DICKINSON: Subject to correction by either side.

MR. LINDABURY: Yes.

(The portion of the testimony of the witness, John A. Topping, as given before the Special Committee of the House of Representatives of the United States, referred to, given August 3, 1911, and with the correction stated, is as follows:)

"Tennessee Coal, Iron & Railroad Co. condensed balance sheet and income account, as of Sept. 30, 1907.

"ASSETS.

"Land, property, and construction account..		$44,815,951.45
"Proprietary land companies and other "investments		901,194.66
"Deferred charges to operations		51,217.31
"Trustees of bond sinking funds		41,831.96
"Treasury securities		1,076,880.00
"Quick assets:		
"Cash	$424,352.23	
"Bills and accounts receivable	2,559,693.74	
"Inventory accounts	2,495,752.71	5,479,798.68
		52,366,874.06

"LIABILITIES.

"Capital stock, common	$29,072,292.00	
"Capital stock, preferred	248,300.00	
"Capital stock, common stock "subscription	263,473.00	
		$29,584,065.00
"Bonded debt (outstanding, less redeemed "and alive in sinking fund):		14,562,000.00
"Guaranteed securities		790,000.00
"Reserve funds		244,701.36

"Depreciation funds	$1,276,611.38
"Current liabilities	3,437,689.30
"Collateral purchase notes	826,386.90
"Profit and loss surplus	1,645,420.12
	52,366,874.06
"Net earnings, 9 months ending Sept. 30, 1907	1,482,282.28
"Net earnings, 9 months ending Sept. 30, 1906	699,862.75
"Gain 1907 over 1906	782,419.53
"Per cent of gain	112
"Net working assets	2,042,109.38"

By Mr. Dickinson:

Q. State whether or not at the time the stock of this company was sold to the United States Steel Corporation, you had on your books orders for various supplies?

A. Do you mean that exactly as you put it?

Q. Yes; I mean that question as I put it.

A. You said various supplies. What do you mean by supplies?

Q. I will change it to "products."

A. That is better. I did not think you meant just what you said. Supplies are what we consume. Commodities are what we sell. Do you refer to rails, and so forth?

Q. Yes, what you were selling?

A. We had a fair amount.

Q. State whether or not there had been any increase over the period immediately preceding the same during which you had made these sales and produced these orders for your products; whether there was a larger tonnage?

A. We produced a much larger tonnage during my administration than was produced during the preceding administration, because we derived some benefit from improvements which were completed.

Q. Your business was increasing, was it not?

A. Our business was increased by the increased capacity of production.

Q. You were producing a larger amount than you were at the time you took the property over?

A. We were.

Q. Your business was increasing as a company, was it not?

A. Yes, naturally, under those conditions, it would have to.

Q. Were the prices, at that time, on the average, better than they had been for some time past?

A. That was during the period of the 1907 boom. We had a large amount of undelivered material sold at high prices, both pig iron, coal, coke and rails, but the price, during 1908, very promptly went off, as you will remember.

Q. I am not asking about 1908. I have not asked you about 1908.

A. What period are you talking about?

Q. I am asking about 1907, the time when the United States Steel Corporation acquired your stock; whether or not at that time the tonnage was not greater and the average prices were not higher than they had been for the year preceding?

A. They were.

Q. State whether or not you had any rail orders at that time, and if so, please state approximately the amount of them?

A. I think we had somewhere between 300,000 and 400,000 tons on the books. That is my recollection.

Q. At what average price was that?

A. About $29, I think.

Q. Had you orders for pig iron, and if so, about what was the tonnage?

A. I would not be certain about the tonnage of pig iron, but it was probably 60,000 tons, or thereabouts.

Q. I will ask you, by way of refreshing your memory, if you cannot remember whether or not it was approximately 97,000 tons.

A. If I stated that before the Stanley Committee—I gave that from a memorandum of our orders—I would say that that was correct.

Q. Can you now remember whether or not that was approximately correct?

A. I think so.

Q. Were you sellers of coal.

A. Yes.

Q. Commercial coal?

A. Yes.

Q. To a large or small extent?

A. Large; we were the largest producers in the South.

Q. Did you have contracts with railroads for the consumption of your coal?

A. Yes.

Q. Was the price at which you were selling it profitable or not?

A. Yes, our coal department made money every year.

Q. Were you making a profit on both your pig iron and coal?

A. Yes.

Q. Has it a substantial profit?

A. Yes.

Q. At the time of the sale of this company to the United States Steel Corporation state whether or not there was any other open hearth mill in the United States that you know of making open hearth steel?

A. I think there was.

Q. Was there any other in the Birmingham district except yours?

A. There was not.

Q. At what other points were there open hearth mills?

A. The Bethlehem Steel Company were making open hearth rails, I think, at that time, at Bethlehem, Pennsylvania.

MR. SEVERANCE: You did not ask about open hearth rails, did you? You said open hearth steel, did you not?

MR. DICKINSON: I said open hearth mills.

THE WITNESS: Then I had better change my reply.

By MR. DICKINSON:

Q. What would your reply be?

A. There were a great many open hearth mills, as you express it, open hearth furnaces.

Q. Now, I will ask you about rails: In 1907, were open hearth rails made anywhere else in the United States except in the Birmingham district?

A. I think so.

Q. Where?

A. I think the Bethlehem Steel Company started to make rails at about that time. My recollection is that they were selling open hearth rails at the time we were.

Q. State whether or not in the year 1907, prior to the sale of the stock of the Tennessee Company to the corporation, the Harriman Lines had given the Tennessee Company an order for open hearth rails, and if so, what was the extent of that order?

A. They did; about 150,000 tons.

Q. How long was that order put in before the transfer of this stock, approximately?

A. I would say possibly six months, approximately six months.

Q. Was this the first order that you had had?

A. No, sir; we had had a number of prior orders.

Q. From the Harriman Lines?

A. Yes, sir.

Q. For open hearth rails?

A. Yes, sir; but for smaller amounts.

Q. What were those sales of small lots made for, if you recollect?

A. The sales of small lots were naturally made for the purpose of introducing the rail to the consumer.

Q. For the purpose of letting them make a trial of the rail?

A. Yes, sir; and to satisfy them as to the quality of the steel.

Q. After you had made those sales of small lots for that purpose, you received an order for 150,000 tons at one time?

A. Yes, sir; we did, as the result of negotiations, and following the smaller sales.

Q. State whether or not on December 31st, 1906, you

made an annual report of the Tennessee Coal, Iron and Railroad Company.

A. I did.

Q. While you were with that company was it, or was it not, customary to make annual reports?

A. It certainly was, as with all other companies with which I have been connected.

MR. DICKINSON: I will strike that question out and ask another question and come back again to that.

By MR. DICKINSON:

Q. Mr. Topping, in December, 1906, state whether or not by that time you had acquired a personal knowledge of the extent and character of the iron and coal properties and limestone properties owned in fee simple by the Tennessee Coal, Iron and Railroad Company.

A. I considered I had.

Q. In the extent of its possessions of raw material, how did it at that time compare with other large companies of this country?

A. I think it was the second largest holder of minerals in the United States.

Q. Which was the largest?

A. U. S. Steel.

Q. How did it at that time compare with other iron or steel producers in the cost of assembling its raw materials for manufacture?

A. It had no advantage over its competitors in that particular district.

Q. But outside of that district?

A. It had some advantage, but had the disadvantage also of reaching the market.

Q. I am not speaking now of reaching the market. The question was confined to manufacture.

A. The cost of assembling was low.

Q. How?

A. The cost of assembling was low, naturally.

Q. What was estimated then by you, from your knowledge of those properties, to be the amount of tons of iron

ore then available for use in the manufacture of iron, according to the then known standards of the science?

MR. LINDABURY: Objected to as irrelevant.

A. I did not make the estimates personally at all, Judge Dickinson. They were made by our mining engineers in charge of the iron ore department.

Q. You knew about the acreage, did you?

A. We knew about the acreage, and we knew about our yield per acre, and in that way I satisfied myself that the reports were substantially correct before I made them, of course.

Q. What was the amount, according to the best of your judgment?

A. About 750,000,000 tons.

Q. Of iron ore?

A. Yes, sir.

Q. And how much of coal?

A. Two billions, approximately.

Q. State whether or not any of this coal was of such a character as made it available for the manufacture of coke?

A. Mostly all coking coal.

Q. State whether or not this iron was of a self-fluxing character?

A. Part of it was and part of it was not.

Q. Please explain, Mr. Topping, what is meant by self-fluxing.

A. Iron ore that requires no limestone to flux it. In other words, it is an iron ore carrying sufficient lime in combination to do without limestone.

Q. State whether or not this ore was well suited for the manufacture of high-grade foundry pig iron.

A. It was.

Q. And how as to the production of basic pig iron for making basic open hearth steel.

A. It could be used for that purpose.

Q. Economically?

A. Reasonably so.

Q. It was used for that purpose, was it not?

A. It was.

Q. And is now?

A. And is now, but is not as economical as northern basic iron. That is what I mean by my remark "reasonably so."

Q. You mean the iron itself?

A. The basic iron, Judge, carries about one per cent of phosphorus, and in our practice in the North, phosphorus is found anywhere from .10 to .20, and it takes time to eliminate phosphorus in the open hearth furnace. The more you have, the more time it takes and the less the output of the furnace.

Q. Your answer, however, was confined merely to the character of the ore, was it not?

A. The ore itself.

Q. And you left out of consideration the question of transportation and of location in relation to other ingredients in making iron, did you not?

A. Just repeat your question and see if I get it clearly.

Q. You were speaking merely of the character of the ore?

A. No; I was speaking about the character of pig iron when produced from the ore and as to its operations in the open hearth furnace.

Q. How is that?

A. I was speaking about the character of the pig iron when produced from the ore with respect to comparing it with basic iron.

Q. The iron itself?

A. Yes. And it is not so desirable and cannot be sold for the same price north. Therefore I qualified my remarks.

Q. In answering that question, you were not, then, considering the question of the manufacture of iron, the question of the cost of manufacture?

A. I was not; I was talking about the product itself when manufactured.

Q. That is what I understood. What was the difference in price between the southern basic pig iron and the northern?

A. The differentials varied somewhat, depending upon the supply and demand, but at times as much as a dollar a ton against southern basic iron in northern markets, and I believe never less than 50 cents.

Q. What markets were you reaching with the products of

the Tennessee Coal, Iron & Railroad Company at the time it was taken over by the United States Steel Corporation?

A. To what particular product do you refer?

Q. Take pig iron and rails.

A. I would have to answer that question in a different way.

Q. I will put the question this way: What markets were you reaching at the time your company was taken over by the United States Steel Corporation, that is to say, where were you selling your pig iron and rails, and what zone were you reaching?

A. We were selling rails in the southern market exclusively, the South and Southwest; we were selling pig iron all over the United States; we were selling coal exclusively in the South and coke exclusively in the South.

Q. What proportion of your pig iron was sold north of the Ohio River?

A. I should say roughly 60 per cent; possibly more.

Q. State whether or not the basic process of making steel has made available a large amount of ore that would not otherwise have been available for making steel?

A. It has.

Q. What are the advantages, if any, Mr. Topping, of steel made by the open hearth process?

A. For some purposes it has no advantages; for others it has.

Q. State what it has and then state what it has not, so you will give both sides.

A. It is too broad a question, Judge Dickinson, to answer in that way, I am afraid.

Q. Under the Bessemer process can you reduce the phosphorous at all?

A. No. For some uses you do not care anything about the phosphorous.

Q. What is the effect of the phosphorous upon steel?

A. It makes it brittle and hard.

Q. Under the basic process can you reduce the phosphorous?

A. We can.

Q. To just the quantity that you want?

A. The quantity you want is nil.

Q. It is nil, is it?

A. Eliminated. We do not get nil, altogether.

Q. You can eliminate substantially all of it, can you?

A. You can if you take enough time.

Q. State whether or not the steel made by the basic process is a more regular steel and a better quality?

A. For many purposes that is true. For some purposes you cannot use it at all. You cannot use basic steel to manufacture pipe, for instance; that is, merchant pipe. You cannot answer that question directly and specifically; it covers too broad a subject.

Q. I will ask you whether or not you can refresh your memory and whether or not you did answer that question. Were you not asked by the Chairman in the Stanley Hearings "What are the advantages of this steel made by the open hearth process?" And did you not answer:

"Well, the general advantage is in this, that you cannot reduce by the Bessemer process phosphorous below the percentage at which you start in on the ore. In fact, you pick up added quantities of phosphorous in the process of manufacture with limestone and coke, whereas in the basic process it is only a question of time when you can eliminate substantially all the phosphorous. And by the basic process you get a more regular steel and better quality, due to the fact that phosphorous is not an element that adds to the quality, but the reverse of that in its general influence. It makes it brittle."

A. I made that statement, yes, sir. There is nothing in that statement in conflict with my present one.

Q. And you make substantially the same statement now?

A. I do as a general proposition. But there is nothing in that statement that is in conflict with the one I just made prior to it. Read the record.

Q. You see we do not know as much about iron as you do, and sometimes our views are a little vague—at least mine are.

A. What I mean to make clear is this: There are so many purposes where the question of the quality of the steel, the character of the steel used, would not qualify Bessemer, and for other purposes the reverse is true, and there is nothing inconsistent in the two statements. I made the statement

to which you refer, I remember very well. In the manufacture of rails I think open hearth steel is well suited for that purpose.

Q. How many thousand acres of mineral lands in Tennessee, Georgia and Alabama did the Tennessee Company have at the time its stock was sold to the Corporation?

A. I do not remember.

Q. I will mention a figure to you and ask if that—

A. A great many thousand acres.

Q. Something over 500,000 do you recollect, about that?

A. I would not be surprised if that was the correct figure; whatever it states.

Q. You would not say it?

A. I do not remember.

Q. How many developed and active iron ore mines did they have?

A. I do not remember the exact number.

Q. State whether they had as many as 15 or 18?

A. There are certainly over a dozen of them, different slopes.

Q. How many coal mines did they have?

A. That I do not remember exactly.

Q. Did they have as many as 20?

A. They might have had.

Q. What is the best of your recollection on that, Mr. Topping?

A. Twenty possibly.

Q. How many blast furnaces did they have?

A. I think there were only 10 that were called active.

Q. Counting those that were active and those that were inactive, how many did they have?

A. Well, let us see: 13, in my recollection.

Q. I will ask you to please think again and see whether or not it was 16.

A. There were three of them in Tennessee that were practically in the scrap heap and never operated by me and never have been since.

Q. There were 13 in Alabama, were there?

A. Yes, sir.

Q. And three in Tennessee that were not operated?

A. Yes, sir.

Q. That would make 16 in all?

A. Yes.

Q. State whether or not the Tennessee Coal, Iron and Railroad Company owned some land companies?

A. They did.

Q. What were the land companies?

A. Ensley Land Company, and then they had two or three small land companies outside of that. No special value attached to those land companies except the one, the important one, the Ensley Land Company.

Q. Were its holdings extensive in lands?

A. The Ensley Land Company was formed for the purpose of developing the town of Ensley, and most of the property, a large part of it, has been sold out in town lots to its present owners; there was a certain equity there; just what it was worth I could not tell you. We did not attach much importance to it as a valuable asset.

Q. Did it not own large tracts of land at that time?

A. It had owned, but it had mostly been sold.

Q. But I mean at the time.

A. They did not.

Q. The time that you acquired it?

A. They did not.

Q. Do you mean to say the value of that was negligible at that time, in a transaction of that character?

A. We did not attach very much value to the Ensley Land Company property.

Q. Did the company own and control the stock of a railroad company?

A. They owned it entirely?

Q. You mean the property?

A. The property. We bought it physically.

Q. Was that or not a subordinate company—the Birmingham Southern Railroad Company?

A. Yes. At the time we bought the property we did not own the company. I bought the property from the L. & N. Railroad and the Southern Railway, at the time we took charge.

Q. You bought the property itself?

A. Bought the property itself.

Q. What was the length of that railroad?

A. It was a short road. Its chief value was due to the terminal facilities. There were something like 100 miles of track all together, of which 15 or 20 miles was main line track.

Q. Did that connect the various mines and plants in the Birmingham district?

A. It did.

Q. With all the divergent trunk lines?

A. It did.

Q. Did you have terminal property?

A. We had. In the City of Birmingham——

Q. Was that valuable property or not?

A. Reasonably so, yes, sir.

Q. What was the capacity yearly of the blast furnaces of the Tennessee Coal, Iron & R. R. Company at the time this stock was sold to the United States Steel Corporation?

A. I do not remember exactly our figures. Something over a million tons.

Q. What was its ingot capacity about the same time?

A. At the time we secured it?

Q. Yes.

A. We had not developed our steel ingot capacity to a point of demonstration because the plant was a new plant, but not quite ready for operation.

Q. What was the calculated capacity of it?

A. A half-million tons.

Q. When you left the property, how many of these blast furnaces had been reconstructed?

A. Four, I think.

Q. I will ask you whether or not it was three.

A. We had three completely rebuilt and in the fourth furnace new stoves, and everything reconstructed except the shell itself, according to my recollection.

Q. Had you or had you not put in a new power plant?

A. Yes.

Q. And an electric power station?

A. We had.

Q. And an electric plant to operate machinery?

A. We had.

Q. Had you constructed a by-product coke plant?

A. We had not. That was built after we sold the property. There was a by-product coke plant on the property which we were operating under a lease from the Semet-Solvay Company.

Q. How far were your coal mines from your furnaces?

A. They varied.

Q. They varied from half a mile to six or seven miles?

A. Some mines were not more than a thousand yards from the blast furnace.

Q. How far were the most distant ones?

A. Possibly 25 miles.

Q. Where were you selling that coal?

A. That was commercial coal.

Q. But the coal that you used to make coke or used in making iron——

A. Most of that came out of the Pratt seam, not to exceed 12 miles.

Q. Was it that far?

A. It might have been in some cases. That was not very far.

Q. Where was Bessemer situated?

A. Beyond Ensley, about four and one-half miles, as I remember.

Q. Where was Ensley situated with reference to Birmingham?

A. About six miles from Birmingham, right up the valley.

Q. Was Bessemer further from Birmingham than Ensley?

A. Yes, sir.

Q. Did you have any furnaces at Bessemer?

A. Yes.

Q. How many?

A. Four.

Q. Did you have a rolling mill there?

A. A small one.

Q. At the time that you received this order, of which you spoke, for 150,000 tons, from Mr. Harriman, was there any other company in the United States making that quality of rail?

A. I think so.

Q. Where did you get that information?

MR. LINDABURY: He testified a little while ago about that.

A. I stated a while ago, I think, that the Bethlehem Steel Company were making open hearth rails at the same time.

By MR. DICKINSON:

Q. I will read a question and answer that appears in the transcript of your testimony before the Stanley Committee, on page 1236.

MR. LINDABURY: I object to that, as the witness' recollection cannot be refreshed by testimony on a former occasion, nor can the examiner impeach his own witness by showing contradictory testimony given on a former occasion.

MR. DICKINSON: I am not trying to show contradictory testimony. I am simply trying to see if he can refresh his memory.

MR. LINDABURY: I object, because memory cannot, by any rule that exists anywhere, be refreshed in that way.

By MR. DICKINSON:

Q. Mr. Topping, do you recall what your memory was on this subject at the time you testified before the Stanley Committee?

A. I recollect the statement I made, but I think I was wrong when I made it. It has occurred to me since that I was wrong.

Q. You think you made a statement—

A. I think the Bethlehem Steel Company was making open hearth rails at that time, although I made a statement contrary to that.

Q. What company do you say?

A. The Bethlehem Steel Company, at Bethlehem, Pennsylvania.

Q. Where did you get that information?

A. I did not get it. My recollection suggests to my mind that I made a mistake in my previous statement.

Q. On what do you base your statement; what are your sources of knowledge?

A. My source of suggestion?

Q. No. After you think now that they made it, why do you think so?

A. Because I recall that Bethlehem was competing with us for open hearth rails, and we were both making great claims of excellence for our quality, which was somewhat special to both of us.

Q. State whether or not, after you acquired this property and before you sold it, you took any steps toward opening up a water communication to the Gulf for the transportation of your products, and, if so, what those steps were?

A. We did, and the steps consisted in arousing public sentiment in our own district as to the advantage of slack water navigation, securing co-operation from those who might be interested in mineral holdings in the Warrior Basin, and we presented the subject in a proper way to the Rivers and Harbors Commission. I went to Washington in the interest of our own company and other manufacturers, and as the result of our work, and through the influence of other sections of the South who would be benefited by the improvement, we finally secured an appropriation for the Warrior River for slack water navigation.

Q. You have spoken of the Warrior basin. Is that the land adjacent to the Black Warrior River?

A. Yes, sir.

Q. What is the course of the Black Warrior River with reference to the Birmingham District?

A. It is contiguous to the coal supply of the district.

Q. Where does it run?

A. Its course is a meandering one. There is a big bend in the river.

Q. What is its general direction? Is it toward the Gulf?

A. Yes, sir; southeast.

Q. Is it a tributary of some other stream?

A. It is one of the rivers that flows into the Alabama. There are four or five names for the river at the headwaters—

Q. It flows into the Alabama River?

A. Yes.

Q. And the Alabama River empties into the Gulf of Mexico?

A. Yes.

Q. The idea was to make slack water navigation to reduce the cost of transportation to salt water?

A. Quite right.

Q. When was that project set on foot, if you recall?

A. I think that was in 1906.

Q. What was the expectation in connection with your company and the marketing of its product in connection with that development?

MR. LINDABURY: I object to that as calling for a mere speculation.

A. The purpose, of course, was to give us as many channels of carriage for distribution as we could get, and our thought was that it would be particularly beneficial to us in getting coal from that district to the Gulf markets. That was the most direct and primary benefit, and it would also, of course, open up to export an opportunity that would be rather exceptional.

Q. Was the Panama Canal talked of at that time?

A. I think it was in a general way.

Q. And the effect it would have upon the development of that section?

A. We did not consider it, however, in connection with the Panama Canal.

Q. Did this export you speak of refer to all your products?

A. It referred more particularly—I thought it would be immediately beneficial in opening up a broader market for our coal, because it would put us in direct connection with the New Orleans market.

Q. And iron also?

A. There is very little market for iron in that section.

Q. I mean when you got out to the seaboard, was any question of transportation to a foreign market involved?

A. At that time we had not investigated foreign markets to any extent, but naturally we thought of the possibilities of export in connection with the means of reaching salt water.

Q. As applied to your pig iron and steel?

A. As applied to our pig iron and other products.

Q. What was the distance in that way to the Gulf port?

A. I do not know.

Q. What would have been the port reached? Mobile?

A. Mobile.

Q. Do you know about what that distance is?

A. I do not remember.

Q. I will ask you whether it is not approximately 150 miles. Do you recall that?

A. It may be.

Q. What is your best recollection about it?

A. I have no direct recollection, but I should say that it would be somewhere about that distance.

Q. What is the distance from Pittsburg to the seaboard, about?

A. Somewhere near 400 miles, I would think.

Q. I will ask you whether it is not nearer 350 miles?

A. It may be. It depends on what port you reach, of course.

(Whereupon, at 12:30 p. m., a recess was taken until 2 o'clock p. m.)

AFTER RECESS.

At the expiration of the recess the hearing was resumed.

JOHN A. TOPPING,

the witness under examination when the recess was taken, resumed the stand for further

DIRECT EXAMINATION,

By Mr. Dickinson:

Q. State, Mr. Topping, whether or not at the time just preceding the sale of the stock of the Tennessee Company to the United States Steel Corporation you explained to Mr. Lewis Cass Ledyard anything in regard to the character of their property, its situation, capacity, value, and so forth.

A. I did.

Q. What was your purpose in making that explanation?

A. My purpose was to give him as near as I could a general description of the property as to its worth and character.

Q. Both prospective and present, as of that time?

A. Yes, sir.

Q. Did you go into an explanation of your mineral holdings?

A. In a very general way I did.

Q. And the fee ownership of the property?

A. I did.

Q. And your ideas of the value of the property?

A. I made no expression as to the value of the property.

Q. Did you go into your ideas as to the future development, without speaking of the dollar value—the general prospective increase in value?

MR. LINDABURY: I suggest that you have him state what he told Mr. Ledyard.

By MR. DICKINSON:

Q. Mr. Topping, please state as fully as you can what you stated to Mr. Ledyard?

A. My statement to Mr. Ledyard was of a very general character, and was a result of a talk which I had with Mr. Schley, who was one of our large stockholders. I stated to Mr. Schley that I wanted to know, first, the purpose of my talk with Mr. Ledyard.

Q. I am not asking about that, as to what you stated to Mr. Schley, and I do not care about going into that. That is not necessary. Please just state, as nearly as you can what you said to Mr. Ledyard.

A. I can do that.

Q. Yes. Please do so.

A. I told Mr. Ledyard, in a general way, what we possessed in the way of minerals, what we had on top of the ground in the way of manufacturing facilities, and what I thought it was necessary to do in order to develop the property, in order to secure the greatest value out of it ultimately. I also spoke of its location and its advantages, as well as its disadvantages; my purpose being to give him a general idea of the property, so that he could form his own opinion as to its value. I made no representations as to my opinion of its value.

Q. Did you or not go into the question of the develop-

ment of the South and the future markets that it would afford?

A. I do not recollect that I did.

Q. Did you discuss with him the question of export possibilities, through Mobile?

A. I do not think I did.

Q. Did you or not explain to him what you had done in the way of improving the property?

A. That I did.

Q. Were you at that time, Mr. Topping, desirous of selling your stock in this company?

MR. LINDABURY: You are speaking of Mr. Topping as an individual?

MR. DICKINSON: Yes.

THE WITNESS: Personally, I was not.

By MR. DICKINSON:

Q. Was what you said to Mr. Ledyard in any way induced by any desire on your part to part with your stock?

A. It was not.

Q. Where, Mr. Topping, are situated the manufacturing plants of the Republic Iron & Steel Company?

A. Our manufacturing plants are located at Birmingham, Youngstown, Ohio, St. Louis, Chicago, Moline, and Muncie, Indiana.

Q. State whether or not for the past several years that company has been a competitor of the United States Steel Corporation?

A. It has; in products that are common.

Q. As far as their products are common?

A. Yes.

Q. In what were they competitors?

A. In tubular products, merchant bars, and, at the present time, steel plates.

Q. How far back does that go,—the competition in plates?

A. We have made plates for about six months.

Q. Prior to that time you were not competitors in plates, were you?

A. No, sir.

MR. LINDABURY: Merchant bars, and what else, did you say?

THE WITNESS: Merchant bars and tubular products—pipe.

By MR. DICKINSON:

Q. Where are situated the ore properties of the Republic Iron & Steel Company?

A. Both North and South; Minnesota, Michigan, Wisconsin and Alabama.

Q. Where are your properties mainly, on which you rely for your supply?

A. Our largest source of supply is in the Missabe Range.

Q. How is that ore brought from the Missabe Range to the place where you convert it?

A. By rail and lake.

Q. State by what railroads it is brought.

A. There are three railroads.

Q. What are they?

A. The Great Northern and the two roads of the corporation.

Q. The two roads of the United States Steel Corporation?

A. Yes.

Q. Were the rates the same over the Great Northern and over the roads of the corporation?

A. From the same points of shipment, yes, sir.

Q. What were the railroad rates, up to the time when there was a reduction, recently?

A. Eighty cents a ton.

Q. From what point to what point?

A. From the mines to Duluth and Two Harbors.

Q. From Duluth how are they transported?

A. By vessel.

Q. By what lines of vessels?

A. There are a great many lines of vessels. We have some of our own vessels. We do not ship by corporation vessels. We have a small fleet of our own.

Q. Are there any roads except the Hill roads and the corporation roads that carry ore from those mines to the Lake?

A. Not serving our mines, no, sir.

Q. How many tones of ore does your company ship annually over those roads? Can you recall that from memory?

A. I cannot tell you from memory.

Q. I believe you had a statement made out, did you not, for the Stanley Committee? Mr. Landabury, would you object to my showing this to the witness, instead of having one made up especially? I mean, to use this instead of having him make another one?

(After an informal discussion:)

MR. LINDABURY: I am willing that the witness should not read that, but that he should use it to refresh his recollection; and, if he is able to say, seeing those figures, that he recalls them, that would be satisfactory.

MR. DICKINSON: Then I want to put it in the record, instead of calling for an original of it.

THE WITNESS: I think this is correct. It is in the form in which our original statement was prepared, and I think it is correct.

MR. LINDABURY: I shall consent to its going in as you suggested, Judge, subject to correction. Just a moment, please, until I get my copy of it.

MR. DICKINSON: It is on page 1241 of the Stanley Hearings.

By MR. DICKINSON:

Q. You have been shown, Mr. Topping, a statement which appears on page 1241 of the Stanley Hearings, entitled "Republic Iron and Steel Company.—Statement of Ore Tonnages," and so forth. State what that shows, and whether or not it is correct to the best of your information and belief.

A. It is a statement of tonnage we shipped for the year 1910; the actual shipments.

Q. Over the various roads?

A. Over the various roads and from the several districts mentioned here.

Q. And at the rates mentioned in the table?

A. At the rates charged, yes, sir.

MR. COLTON: Please have that marked as an exhibit.

MR. LINDABURY: I consent that this be admitted in evidence, to the same effect as if it were an original, but object to it on the ground that it is irrelevant.

MR. DICKINSON: Subject of course to any correction for misprints.

MR. LINDABURY: Of course it is subject to the right of either party to correct it, if it is found to be erroneous in any respect.

(The table found on page 1241 of the Hearings before the Committee on Investigation of the United States Steel Corporation, entitled "Republic Iron and Steel Company—Statement of Ore Tonnages for Season of 1910, Railroads and Upper Lake Ports, Handling Same and Rate Per Ton Charged," so offered in evidence, was marked "Government's Exhibit No. 86, May 15, 1912.")

By MR. DICKINSON:

Q. Without questioning you as to whether or not the 80-cent rate was higher than it ought to have been, state what was the effect, if any, upon you as a competitor of the United States Steel Corporation to the extent, if any, that the rate was unreasonable.

MR. LINDABURY: I object to that. That is not a matter calling for expert evidence.

By MR. DICKINSON:

Q. Would, or would not, an unreasonable rate charged from carrying your ores from the Missabe region to Duluth reflect itself in the cost of your products, and your ability to compete with the United States Steel Corporation?

MR. LINDABURY: I object to that. The answer to that question is obvious and not at all a matter for expert opinion, and I object to it as being irrelevant.

By MR. DICKINSON:

Q. Answer the question.

A. Any excess charged would naturally be reflected in the cost of operation.

Q. Where would that excess charge go?

A. In the cost of the products.

Q. Where would the money you paid for it go?

A. To the road carrying it.

Q. If that road was owned by the Steel Corporation, it would go into the revenues of that company, would it not?

MR. LINDABURY: I object to that.

By MR. DICKINSON:

Q. Answer the question.

MR. LINDABURY: Do not answer that question just yet. It is not a proper subject for testimony of any kind.

MR. DICKINSON: I think it is.

MR. LINDABURY: It is an argumentative question. It could hardly be designed for the record.

By MR. DICKINSON:

Q. Can you get your ore from your ore mines to Duluth except by hauling it either over the Hill roads or over the roads of the Corporation?

MR. LINDABURY: I object to that, as it has been answered three times, within ten minutes.

By MR. DICKINSON:

Q. Are any of your mines located exclusively upon the railroad lines of the United States Steel Corporation?

A. I am not certain as to that, but I think not.

Q. Do you mean to say that according to your recollection, all of your mines are served both by the Hill roads and by the roads of the Corporation?

A. I cannot answer that specifically, because I do not recollect.

Q. Then you do not undertake to state how that fact is?

A. I would rather answer that by saying that I am not certain as to that fact.

Q. Does the Republic Steel and Iron Company make the

character of products consumed by railroads, other than rails, to any extent?

A. Yes, sir; they make some products consumed by them; most all of our products are consumed by them.

Q. To what extent have the railroads of the country generally been the consumers of the production of steel?

A. That is rather a difficult question to answer.

Q. I will ask you whether or not it is as much as 40 per cent.

MR. LINDABURY: How does this witness know?

MR. DICKINSON: I am asking if he does not know.

MR. LINDABURY: He is not in the statistical department of the Government.

By MR. DICKINSON:

Q. Have you ever seen an estimate made of that?

MR. LINDABURY: I object to that. It is hearsay.

A. I have not.

By MR. DICKINSON:

Q. To refresh your memory, Mr. Topping, I will ask you if you did not state before the Stanley Committee——

MR. LINDABURY: I object to refreshing the witness's recollection by his previous evidence. It is contrary to the rules of practice and the rules of evidence.

By MR. DICKINSON:

Q. I will ask you whether you stated that the railroad-consumption of the country was about 40 per cent of the production of steel.

MR. LINDABURY: I object to that and advise the witness not to answer it. You cannot prove your witness's former testimony in any such way.

A. I do not recollect it.

By MR. DICKINSON:

Q. What percentage of the steel production of the country,

such as is used by railroads, does the Republic Iron & Steel Company make?

A. What percentage of our production?

Q. No, what percentage of the entire production of such steel as is used by railroad companies does your company make?

A. I could not answer that question.

Q. Have you any idea what it is?

MR. LINDABURY: I object to any request made to the witness to speculate or give his ideas merely.

A. I have not.

By MR. DICKINSON:

Q. Have you or have you not been selling structural material to the railroad companies, to any large extent?

A. No, sir; we do not make structural material at all.

Q. I mean the kind of material that the railroad companies use and consume?

A. We have.

Q. In recent years?

A. Yes, sir.

Q. Has there been an increase or decrease in your sales to them?

A. A decrease.

Q. Has that decrease been a constant one or a variable one?

A. The railroads have been buying very lightly for the last three or four years.

Q. Is that decrease on account of the reduction in their purchases?

A. Exactly.

Q. What proportion of your output of pig iron in the Birmingham district goes north of the Ohio River?

MR. LINDABURY: He has testified as to that this morning.

A. Not as to our company.

MR. LINDABURY: You mean the Republic Iron & Steel Company?

MR. DICKINSON: Yes, sir.

MR. LINDABURY: I object to that as irrelevant and depending upon circumstances that cannot be tried out here.

MR. DICKINSON: Have you finished your objection?

MR. LINDABURY: Yes. However, I will object further on the ground that it is an unjustified inquiry into the private affairs of a corporation not a party to this cause.

By MR. DICKINSON:

Q. Answer the question.

A. I have no objection to making a statement. There is nothing secret about it. I should say about 50 per cent of it, roughly. That is, you are speaking of the Republic Iron & Steel Company?

Q. Yes?

A. That is the way I understood the question.

Q. State now, Mr. Topping, whether or not the market of the South for the sale of iron has been constantly growing.

A. It has.

Q. State whether or not during the last ten years there has been going on a general development in the South.

MR. LINDABURY: That is objected to as leading.

A. I have not been operating in the South for ten years.

By MR. DICKINSON:

Q. How long have you been operating there?

A. Since 1906.

Q. Please state whether or not there has been a general development going on since that time.

A. Yes, sir; there has been.

Q. State whether or not the Republic Iron & Steel Company within the last year or two reduced the prices of any of its products?

A. It did.

Q. In what lines of products?

A. Steel bars.

Q. State whether or not before your company made that reduction you notified Judge Gary of your intention before you cut the prices?

MR. LINDABURY: Why do you call it cutting the price? I object to the question.

By MR. DICKINSON:

Q. Before you reduced your price, then?

A. We published broadcast through—

Q. I will ask you—

MR. LINDABURY: Do not interrupt him. Published broadcast what?

THE WITNESS: Through the press.

By MR. DICKINSON:

Q. Have you finished now?

A. I have. I might say we published it broadcast through the Press Association that we had reduced our price.

Q. I will ask you whether or not you notified Judge Gary before you published it broadcast?

A. I did, and all others.

Q. Did you not notify him before you made any reduction or gave any public notification of it?

A. I did.

Q. Before that had you been selling those products on which you reduced the price at the same price at which the United States Steel Corporation had been selling them?

A. We might have been. I am not certain in all cases; in most cases, yes.

MR. DICKINSON: That is all.

CROSS EXAMINATION.

By MR. LINDABURY:

Q. Taking up the later subject first, Mr. Topping, did you notify anybody else at the same time that you notified Judge Gary of your contemplated change of price?

A. I did.

Q. Who else?

A. Most of the manufacturers engaged in the same lines of production.

Q. What do you mean by most; small or large ones—important ones?

A. The more important ones, because the more important

ones were present when I made the statement of my intentions.

Q. How soon did you give that to the press?

MR. DICKINSON: Read that question.

(The question was read by the stenographer).

By MR. LINDABURY:

Q. That is, notice of your intention to change your price.

A. Exactly.

Q. You immediately gave it to the press?

A. In order that I might notify all of the less important manufacturers.

Q. That had not heard you make the statement?

A. Exactly.

Q. And how soon did the reduction take place after you made this announcement?

A. The next day.

Q. This reduction, you said, applied to steel bars?

A. Yes, sir.

Q. And what else principally? I do not mean everything, but the principal ones?

A. The public notice and the notification applied to steel bars exclusively.

Q. I see. How many other makers of steel bars were there in the United States, approximately?

A. Six or seven.

Q. Did they change their prices?

A. That I do not know.

Q. Thereafter?

A. I assume so, although I have no direct knowledge as to what they did.

Q. You understood afterwards that they quoted the same prices as you, did you not?

A. I learned that through trade reports.

Q. Yes.

A. But from no direct information.

Q. Did you manufacture quite a large amount of bars at this time?

A. We did, yes; that was our principal product.

Q. I suppose that a reduction in price by one under such circumstances naturally and necessarily brings down the price the others can get, does it not?

A. It naturally would.

Q. So that a change like that, by way of reducing price necessarily is followed by a similar reduction on the part of others who make a similar product of equal quality?

A. That would be particularly true at a time when the demand was restricted.

Q. Yes.

A. Otherwise it would not be.

Q. I suppose there are times when the demand is greater than the supply, and you can get any old price.

A. Quite right. In that case it would not have had any effect at all.

Q. In that case, I suppose you would not have done it?

A. No, sir; we would not.

Q. So it would not have had any effect?

A. Quite right.

Q. Now, going back to some of the testimony you gave early this morning, you told us that you were connected with the Aetna Company, did you not?

A. I did.

Q. When did you say that your connection with that company began?

A. In 1877, I think it was.

Q. And what was your position with that company?

A. I held a clerical position as a boy.

Q. And how long did you continue with it? Until you got to be a man?

A. Until the time I left it, in 1900, when it was sold.

Q. And then you went where?

A. I continued to operate the property for the National Steel Company, after it was sold.

Q. Yes.

A. Then I became first vice president of the American Sheet Steel Company.

Q. I think you said that the Aetna sold something in competition with the Carnegie Company, did you?

A. I did.

Q. What was that?

A. Sheet bars and billets; steel bars.

Q. I think you said it did not compete with the Illinois Company?

A. No; I did not make that statement in that way, Mr. Lindabury. We were competitors of the Illinois Steel Company.

Q. You did not compete in the Chicago territory?

A. We did compete in steel bars in the Chicago territory.

Q. Perhaps I misunderstood you then.

A. I think so. I referred to the National Steel Company not competing with the Illinois Steel Company in that territory.

Q. Very well. That is what I meant to ask about particularly, anyhow. What was your connection with the National Steel Company after it was formed?

A. I continued to operate the plant independent of the National Steel Company, as President of the Aetna Standard Iron & Steel Company.

Q. I think you said the National Steel Company did not compete with the Illinois Steel Company?

A. I think I did.

Q. But that it did compete to some extent with the Carnegie Company?

A. I did.

Q. And in what product was that?

A. There are quite a number of products in common, rails, plate, structural.

Q. You remember about the formation of the Tin Plate company, I presume?

A. I think so; the general circumstances surrounding it.

Q. And the National was the next of that group?

A. It was.

Q. It was called the Moore Group, was it not?

A. It was.

Q. And I think you said it was organized to furnish the raw material to the Tin Plate Company?

A. It was.

Q. As you understood it?

A. As I understand it.

Q. The Tin Plate Company had no source within itself of obtaining the raw material, had it?

A. It had not.

Q. And this company was organized to supply it, and when it was organized and started out, it acquired a capacity beyond the needs of the Tin Plate Company, did it not?

A. It did.

Q. Then which was the next of the group of Moore Companies to be organized?

A. It was the Sheet Steel and the Steel Hoop.

Q. And the Sheet Steel was organized, was it not, to furnish another customer for the surplus of the National Steel Company, which the Tin Plate Company did not take?

A. They were both organized, as I understood it at the time, for the purpose of balancing up the National Steel Group; for the purpose of making it a self-sustaining proposition.

Q. That is another word to explain the furnishing of a source for using up the surplus of the National Steel Company?

A. In other words, the National Steel Company was the supplying plant for the sister companies, the Sheet Steel and the Steel Hoop.

Q. And when the last two companies were organized it was because the National Steel Company was able to make more raw material than the Tin Plate could use?

A. It was.

Q. And this was the method of working up its production of raw material?

A. As I understand it.

Q. As you understood it. Was the National Steel able to make all that these three sister corporations, as you call them, finishing mills, I will call them, needed?

A. I think so, approximately, to the best of my recollection.

Q. But only just about what they needed?

A. No; I think at times they bought some steel outside.

Q. That is, these finishing mills did?

A. I think so.

Q. Because the National Steel Company was not able to supply them?

A. At times that was true.

Q. There were times, I think you said this morning, when the National Steel Company sold a little steel?

A. At very brief intervals, depending upon the conditions of the finishing mills.

Q. Yes. This sale of raw material, however, other than to its sister companies, was very little, was it not?

A. I should say so, based on my general recollection of the conditions at that time.

Q. And would you say that the National was a competitor of the Loraine at all?

A. Prior to the formation of the Sheet Steel and Steel Hoop, I should say they might have been in that district at times.

Q. But not afterwards, were they?

A. I should not think so.

Q. And its competition, after the Sheet Steel and Steel Hoop were formed with the Carnegie, was trifling, was it not?

A. I did not understand that.

Q. I say the competition of the National with the Carnegie, after the Sheet Steel and Steel Hoop were formed, was trifling, was it not?

A. I should say it was very much lessened on account of the fact that they had less steel to sell in the open market.

Q. So that when the Steel Corporation was formed, the Steel Hoop and Sheet Steel Companies bought sometimes from the Carnegie Company, did they not?

A. I think so.

Q. But that was only when the National was unable to supply them, was it not?

A. That would be the natural conclusion.

Q. Well, generally, that was the course of business?

A. That would be the reason, yes, sir.

Mr. Dickinson: Excuse me a moment. Are you speaking from knowledge now?

The Witness: For this reason, Judge Dickinson——

Mr. Dickinson: I am only asking you if you are speaking from knowledge now.

THE WITNESS: I am, based on my recollection of the condition of my own company. We bought bars, outside, we bought billets outside, depending on the condition of our own producing plant, which might have been down by reason of accident, or blast furnaces out or steel plant off, and at times we were buyers in the open market.

MR. DICKINSON: What company was that?

THE WITNESS: Sheet steel.

By MR. LINDBURY:

Q. So that when the Steel Corporation was formed there was no real or substantial competition between the Moore Group of companies and either the Federal or the Carnegie Company, was there?

A. As far as I recollect——

Q. I will withdraw that, because we have been talking about the National. At the time the United States Steel Corporation was formed there was no substantial competition between the National and either the Federal or the Carnegie, was there?

A. On raw materials, I would say not.

Q. And none at all between the Federal and National, was there?

A. There would be a little there on the finished products.

Q. I see. But it was trifling in amount, was it not?

A. It was rather small in a general sense, small as compared with the output of the National Steel group; that is what I mean.

Q. What percentage would you suppose, or could you put it in tonnages?

A. I could not put it in a definite amount. It involves the steel bar and steel hoop products which were common products of the Illinois Steel, which was then a part of the Federal Steel, as I recollect.

Q. Yes, that is right. Coming down to the Tennessee Coal & Iron, who got up the syndicate which you have spoken about in which Mr. Schley and Mr. Hanna and Mr. Oakleigh Thorne and yourself and others were interested.

A. My impression is, from what has been told me, that Mr. Schley and Mr. Charles Guthrie, who is now dead——

Q. Who invited you into it?

A. I was invited into it after I became associated in the Republic management. I went into the Republic management through Mr. Hanna and Mr. Oglebay's interests.

MR. DICKINSON: I did not hear the last part of that statement.

A. (Continuing.) I went into the Republic ownership and management through Mr. Hanna and Mr. Oglebay, both of whom I had known for many years.

By MR. LINDABURY:

Q. I understood you to say that the object in going into this was to develop the property for the purpose of making money.

A. That is what I said.

Q. And that was either by selling the property or developing it for profit, or in any other way, legitimately realizing on your investment, was it not?

A. We had no intention of selling the property.

Q. Nor any objection to it, I suppose. You had no thought one way or the other about it, had you?

A. My thought was to develop the property and make our money out of the development.

Q. The men who entered that were rather strong men, I take it, from your statement?

A. Their records and reputations would rather suggest that, I think, Mr. Lindabury.

Q. They were, some of them at least, good judges of such properties, were they not?

A. I think so.

Q. Mr. Hanna was as good as anybody in the country, was he not?

A. I judge so.

Q. And Mr. Oglebay was hardly second to him, was he?

A. I think that is right.

Q. No two men in the country, probably, were better judges of such properties than they, were they?

A. They were certainly considered good judges of mineral property.

Q. They were men of wealth, were they not?

A. So reputed.

Q. And very large wealth, were they not?

A. I have no personal knowledge of their wealth.

Q. But that was their reputation?

A. I think so.

Q. And there were other moneyed men in the syndicate, were there not?

A. I cannot say.

Q. Mr. Oakleigh Thorne was in the syndicate?

A. I do not know much about him personally.

Q. Perhaps comparisons or invidious, and so I will stop with saying that there were quite a number in the syndicate who were considered very strong financially, were there not?

A. Yes.

Q. Mr. Oliver Payne was in it, was he not?

A. Yes.

Q. Mr. Oliver Payne is one of the wealthiest men in the country, is he not?

A. He is so reputed.

Q. Did you talk with Mr. Hanna?

A. When?

Q. Before you sold your stock?

A. I did not.

Q. Did you talk with any of the other gentlemen, your associates in the syndicate, except Mr. Schley?

A. I think I would answer your question rather differently from the way you put it. I did not talk with Mr. Hanna individually or directly, but our own syndicate, that is, the executive committee and the finance committee, of which I was a member, discussed the situation, and we decided what we would do individually.

Q. You mean the syndicate that held the stock, do you?

A. No, sir; I mean the executive committee.

Q. Of what?

A. The executive committee which comprised my immediate associates in the management of the company. We talked it over informally after we knew what the development was.

Q. Let me see. There was a syndicate independent of this executive committee, was there not?

A. The syndicate, of course, was the syndicate ownership that controlled the company.

Q. Yes. There was a syndicate which held for the owners the stock, a majority of the stock of the company, was there not?

A. Yes, sir.

Q. That was formed when the scheme was first conceived, was it not?

A. It was, immediately afterwards, I believe.

Q. And who constituted that syndicate?

A. I cannot tell you in detail. The entire membership. There was quite a number of them.

Q. Excuse me, I did not mean that. Who were the managers of that syndicate?

A. Mr. Hanna and Mr. Schley.

Q. This Mr. Hanna that you have spoken of?

A. Yes.

Q. G. B. Schley and Mr. L. C. Hanna?

A. Yes, Mr. L. C. Hanna and Mr. G. B. Schley.

Q. Under the syndicate arrangement this stock which was bought by the corporation could not be sold without the assent of these managers, could it?

A. I hardly think it could, unless moral responsibility were disregarded.

Q. I mean if they observed the terms of the syndicate whether they were legal or moral only, they had at least a veto upon the sale of the stocks?

A. I felt they had, so far as I was concerned.

Q. You did not sell, therefore, or try to induce the Steel Corporation to buy, without ascertaining what the judgment of the syndicate managers was, I take it?

A. No, I did not go that far.

Q. Did you not learn before you sold what the view of Mr. Hanna was in regard to the matter?

A. My understanding was that one member of the syndicate was in a position where it was necessary for him to sell.

Q. That is another question. Did you learn——

A. I cannot answer your question without bringing that in, however.

Q. I am going to get that. But I want to start with ascer-

taining from you if you learned the views of Mr. Hanna before you acted.

A. I did.

Q. He was in favor of selling, was he not? No matter for what reason. I will come to that presently.

A. He was not.

Q. Did you not hear him testify before the Stanley Committee?

A. Yes, I did. I did not hear him testify, but he was not immediately in favor of it. Later we were all in favor of it, for reasons then existing.

Q. What were they?

A. General conditions at the time, that it was the best thing to do under all the circumstances.

MR. DICKINSON: You are bringing out new matter, of course, and I have a right to cross-examine him on that.

MR. LINDABURY: I guess you have, and I suppose you will take it.

MR. DICKINSON: I simply call your attention to the fact.

MR. LINDABURY: I will not be terrified by any threat of that kind.

MR. DICKINSON: I am not a bulldozer.

MR. LINDABURY: No, I know you are not.

By MR. LINDABURY:

Q. What were the reasons, then, that led you and Mr. Hanna and these other gentlemen to favor the sale of the stock?

A. I can answer for my own reasons. They were that I did not care to be a minority holder of the stock.

Q. And you learned that the rest were going to sell?

A. I learned that a number were going to sell, which carried a very substantial ownership.

Q. Who were they that you learned were going to sell?

A. Mr. Schley and his immediate associates, Mr. Schley's holdings.

Q. Colonel Payne?

A. I understood that Colonel Payne was going to sell.

Q. And Mr. Hanna?

A. I knew that Mr. Hanna was going to sell when I had actually sold mine, but not prior thereto.

Q. And Mr. Oglebay?

A. Mr. Hanna, Mr. Oglebay and myself were very close in our associations, and I think we concluded to sell about the same time.

Q. You stood together?

A. To be entirely correct about it, I think we concluded to sell about the same time.

Q. Well, whatever the embarrassments of Mr. Schley may have been, or whatever the condition of the money market may have been, I judge from what you say that these strong financial men were able to hold on to this property, had they chosen to do so. Is that true?

A. They might or might not have been at that time. I do not know as to that.

Q. I am not asking whether they were willing, but whether they were able.

A. That I cannot answer from my direct knowledge.

Q. You did not learn, then, that they were in danger of financial collapse, did you?

A. I had no information as to their individual positions.

Q. There was no discussion on that point among you?

A. Not that I heard.

Q. Nobody suggested that those men did not have the financial ability to carry the Tennessee Coal & Iron Company if they wanted to?

A. I think not.

Q. How did you happen to go to see Mr. Ledyard?

A. At Mr. Schley's suggestion.

Q. Who asked you to do it?

A. He did.

Q. Why did he tell you he wanted you to go? Did he tell you he wanted to sell to Mr. Ledyard?

A. At that time he did not.

Q. What did he tell you?

A. He told me he would like to have me meet Mr. Ledyard and tell him about the Tennessee Property, and I assumed that Mr. Ledyard might become interested. At that time I did not know Mr. Schley's lately reported position.

Q. Did you not know that Mr. Schley's object was to sell to Mr. Ledyard?

A. At that time I did not. Later I did.

Q. You said you went to Mr. Ledyard and you represented the property as you understood it to be, so he could form a conclusion of his own as to its value.

A. I did.

Q. Why did you think he was interested in forming a conclusion as to its value?

A. Because in the formation of the syndicate I did most of the work for Mr. Schley, as I was in a position to do it, from my knowledge of the business, and he had not the knowledge of the business, and he had improperly assumed, as it turned out, possibly, that Mr. Ledyard was going to join our syndicate.

Q. I see; so when you went to Mr. Ledyard and talked to him, you did not know that he was to come into the syndicate?

A. I did not have any direct information as to what his intentions were. I did it at Mr. Schley's suggestion, assuming that was what it was for.

Q. And you did not ask?

A. I did not ask.

Q. Did you see Mr. Ledyard more than once?

A. Yes, sir; I saw him later. I think I saw him twice.

Q. Did you know what Mr. Schley's object was the second time you saw Mr. Ledyard?

A. At that time I did know.

Q. What took place the second time was simply following up the first interview, was it not?

A. I think when I saw Mr. Ledyard the second time it was at Mr. Schley's office down town, and I made no general representations. I think I answered some questions he asked me at the time. Just what they were I do not recall.

Q. This second visit was also in furtherance, I suppose, of Mr. Schley's request?

A. Yes, sir.

Q. You then understood that Mr. Schley was desirous to sell out?

A. I did the second time. I was asked to come to Mr.

Schley's office, and I think when I came in there I found Mr. Ledyard there.

Q. Then you understood the second time that Mr. Schley was desirous of selling out?

A. I was not positive then he was going to sell out, or what his real position was, but I inferred from the character of the conversation that that was what he was contemplating.

Q. Did you understand who it was that Mr. Ledyard was acting for?

A. I did not.

Q. Or who the proposed purchaser was?

A. I did not.

Q. You had not heard the Steel Corporation mentioned?

A. Not at that time; no sir.

Q. All you knew or suspected, then, was that Mr. Schley was looking around for a purchaser?

A. That is the impression I had.

Q. Who that purchaser was you had not then heard?

A. I did later on.

Q. But I say you had not then heard?

A. I had not.

Q. You were a friend of Mr. Schley's?

A. And I am today.

Q. And you are today?

A. I am associated with him.

Q. You are still associated with him?

A. Yes, sir.

Q. You were desirous of furthering his wishes?

A. In every reasonable and proper way I could.

Q. And so, learning that he wished in some way to interest Mr. Ledyard, you went the first time——

A. Yes, sir.

Q. And understanding the second time that he wanted to sell to somebody or other, no matter who, you continued to aid him?

A. I did.

Q. Did you understand, then, Mr. Schley's desire to sell was due to the financial situation and embarrassment of his firm in connection with it?

A. I did not.

Q. Did you not understand it was due to the financial situation?

A. I may have assumed that. I had no direct knowledge.

Q. It was a natural inference, was it not?

A. Yes.

Q. It was an inference that you drew from the situation, was it not?

A. It was a natural inference for me to draw.

Q. And you did draw it?

A. I did.

Q. The situation was pretty bad about that time, in New York, was it not?

A. It was.

Q. And throughout the country?

A. It was.

Q. Do you remember what day it was that you first went to Mr. Ledyard?

A. I do not.

Q. Do you remember either the day of the week or the month?

A. I do not.

Q. You said you had a talk or conversation and discussion with some executive committee, at which you decided what to do. What was that committee?

A. We had an informal talk among the various members of our committee.

Q. Do you mean by that the syndicate?

A. No; not the syndicate?

Q. What committee?

A. Of our associates who composed our executive committee, who were also members of the syndicate. It was not a meeting of our board at all. It was a meeting of associates who comprised that board.

Q. An informal meeting?

A. Of the members of the Syndicate.

Q. That is, they were both on the executive committee and members of the syndicate?

A. That meeting was, as I recollect it, just immediately prior to the meeting that we knew of, which was had at Mr.

Morgan's library, which Mr. Schley, and Mr. Hanna and myself attended.

Q. Was Mr. Ledyard there?

A. He was.

Q. That must have been your third meeting with him?

A. Yes, sir.

Q. So you met Mr. Ledyard the third time. Did you talk with him the third time?

A. Not except to speak with him. We had no conversation.

Q. With whom did you talk there?

A. We did not do any talking at all. We sat in the library while the conference was going on in the other room. Then we adjourned without action.

Q. There were several conferences going on in the library that day?

A. Yes, sir; it was a very busy day.

Q. What day of the week was that? Was it Saturday or Sunday?

A. My recollection is that it was Sunday afternoon.

Q. Do you remember how many people there were there?

A. The house was full. We were in one room, with a collection of bibles. That was the first information I had as to the serious character of the situation.

Q. When you saw who was there you realized how serious it was?

A. Yes, sir; everybody felt pretty serious at that time.

Q. A good many of the leading men of New York were there?

A. I think most all of them were at one time or another.

Q. They were all looking pretty serious?

A. Yes, sir.

Q. It was, indeed, a very serious hour?

A. Very.

Q. There seemed to be great danger of a horrible financial collapse?

A. There had been substantially at that time.

Q. Nobody could say where it was going to end?

A. Nobody could see how far it was going to go. The panic was on then.

Q. Did you have a talk with Mr. Schley then about the business end of it?

A. Naturally we discussed matters pro and con.

Q. From whom did you learn that there was then on foot a sale of the Tennessee Coal & Iron Company to the Steel Corporation?

A. The sale had not yet been made.

Q. I say, when did you learn that that was on foot, or under consideration?

A. The first intimation I had was from Mr. Schley himself in which he said to me, in the presence of others, as I recollect it—other members of the syndicate—that it would be necessary to sell the Tennessee property, and I assumed that he meant that it would be necessary for him to sell.

Q. The Tennessee Coal & Iron Company itself was not a corporation in financial difficulties, was it?

A. I do not think so.

Q. You understood that the trouble was with the stockholders, and not with the corporation?

A. That is my understanding, and that is my present belief.

Q. When was it, in that connection, that the members of the syndicate had the informal meeting to which you refer, with reference to that time?

A. My recollection is that it was on either Friday or Saturday at Mr. Schley's uptown office, 745 5th Avenue.

Q. And who was present then?

A. Mr. Oglebay and Mr. Hanna, Mr. Schley and Mr. Gates and myself.

Q. Mr. Gates was on the ocean then, was he not?

A. My recollection is he arrived on Saturday morning—or was it Sunday morning?

Q. I think you are mistaken as to the day.

A. Then the meeting was Monday morning instead of Saturday, either immediately following or immediately preceding.

Q. You are sure he was there?

A. Yes, sir, Mr. Gates was there, and he came immediately from the steamer to the office.

Q. Whenever it was, it was after his arrival?

A. It was after his arrival.

Q. And you then talked the situation over?

A. And that was the first announcement I heard as to Mr. Schley's intention to sell.

Q. Did you know how much Tennessee Coal & Iron Stock Mr. Schley had?

A. I did not.

Q. Did you not hear?

A. At that time?

Q. Yes.

A. No, sir; I did not.

Q. Well, was it a very large proportion of the stock?

A. From the testimony I read it would seem to have been, although I have no knowledge.

MR. DICKINSON: You are asked what you know.

THE WITNESS: I did not know what he had.

By MR. LINDABURY:

Q. Did anybody inquire at that meeting how much Mr. Schley had?

A. Not that I recollect.

Q. There were several men at that meeting that could have taken all that Tennessee Coal & Iron off Mr. Schley's hands and paid for it at the largest quotation, if they had so desired, could they not?

A. That I do not know.

Q. Have you any doubt that either Mr. Hanna or Mr. Ogleby or Mr. Oakleigh Thorne or Mr. Gates, or Mr. Payne could have taken the Schley stock and paid for it at the highest quotation had they chosen to do so?

A. I do not know that I am prepared to answer that, Mr. Lindabury.

Q. Nobody suggested that they do that, I suppose?

A. Not at that time, no sir.

Q. And none of them offered to do that?

A. I think it was too late to have done it.

Q. I do not know about that. Anyhow, that was not proposed or offered?

A. It was not proposed or offered, and I doubt if it could have been done.

Q. And why not?

A. The conditions at the time were hardly suggestive of a banking operation. Collateral was not worth much in those days.

Q. You mean if they had gotten it they could not have borrowed anything on it?

A. I mean that it would have been difficult to have borrowed anything on anything.

Q. And it would have been difficult for even these gentlemen to have raised enough cash to purchase even a comparatively small amount of that stock.

A. It might have been.

Q. It might have been. That is what I mean.

A. Yes.

Q. In fact, it was very difficult to get any money for anything, was it not, no matter what the security was?

A. Unquestionably so.

Q. What did you resolve to do at that meeting? You said you made up your mind then what you would do?

A. We resolved we would sell at a certain price.

Q. Individually?

A. That we would sell, the minority stockholders to be taken care of.

Q. That all of you would sell?

A. Yes.

Q. That you would sell individually, but that you would all sell?

A. Only with the understanding, however, that the minority stockholders were taken care of at the same price we were paid.

Q. By that you mean that they were given an opportunity to sell?

A. Exactly so.

Q. At the same price at which you were selling?

A. Quite right.

Q. And everyone of you agreed to that?

A. That was the conclusion.

Q. Did you understand then who were the proposed purchasers?

A. I did.

Q. And who were they?

A. The Steel Corporation.

Q. And who told you that?

A. I got that from Mr. Schley.

Q. Did you understand that there was any pressure brought to bear upon you by the Steel Corporation to make this sale?

A. I did not so understand.

Q. Did you understand from Mr. Schley or from any of your associates, that there was any pressure brought to bear by Mr. Morgan or Mr. Ledyard or the Steel Corporation to bring about the sale?

A. I did not.

Q. Or by Judge Gary?

A. I did not.

Q. Or Mr. Frick?

MR. LINDABURY: Was there an answer as to Mr. Frick?

THE STENOGRAPHER: No, sir.

By MR. LINDABURY:

Q. I meant to include in my question the name of Mr. Frick, and to ask whether he had done anything, so far as you heard?

A. I did not meet Mr. Frick in the negotiations at all.

Q. To bring any pressure upon you or anybody else to make this sale?

A. I did not know Mr. Frick in the transaction.

Q. Did you understand yourself or hear or learn from any of your associates, that either the Steel Corporation or Judge Gary or Mr. Frick or Mr. Morgan or Mr. Ledyard or anybody connected with them had done anything to bring about the situation which required the sale of the stock?

A. I did not, and I don't think so to-day.

MR. DICKINSON: You were not asked what you thought, and you will please not state what you thought. It was not responsive to the question, and an improper answer.

MR. LINDABURY: Read the question.

(Question and answer read by the stenographer.)

MR. SEVERANCE: It is perfectly responsive.

MR. DICKINSON: I object to that part of the answer as not responsive and as volunteered by the witness.

By MR. LINDABURY:

Q. Upon the assumption that you have answered beyond the question I will make the question as broad as the answer. Have you learned of anything of that kind since?

A. I have not.

Q. Did you think so then, or do you think so now?

MR. DICKINSON: Wait a moment?

A. I do not.

MR. DICKINSON: Wait a moment. That is excepted to as improper examination, calling for what the witness thought, and not for what he knew.

MR. LINDABURY: Judge, do you remember how many times you asked him this morning about what he thought about all kinds of things?

MR. DICKINSON: Well, I remember you excepted, too.

MR. LINDABURY: That is all right. Now I can understand why you excepted.

MR. DICKINON: I thought I would give you a Roland for your Oliver. I do not admit I asked any questions just of that character. My questions were as to judgment and opinion, and not what he thought.

MR. LINDABURY: Your questions were what?

MR. DICKINSON: My questions asked for his judgment and opinion about properties and the market.

MR. LINDABURY: Do you want me to ask him what his judgment is instead of what he thought?

MR. DICKINSON: No, I do not want you to ask that at all. I am only saying I do not think the conditions are quite parallel.

By Mr. Lindabury:

Q. As to the financial situation of the company, you had found the works of the company in pretty bad shape when you took hold, had you not?

A. I reported that I did.

Q. I believe that is so. However, I am asking you not for your report, but for the fact.

A. I did, yes.

Q. And you had found that quite a good deal of money would be necessary to put the company on its feet to earn anything, had you not?

A. I had.

Q. And up to the time of the sale how much had the stockholders put in?

A. About eight million, I think.

Q. And that had been expended, I think you have told us?

A. Very largely.

Q. To a very large extent?

A. Possibly up to the time of the transfer—I would not be certain about this, but I think something over seven million had actually been expended. There was an unexpended balance of something like a million.

Q. And they had built some works which were not yet completed, I think?

A. True.

Q. What were they?

A. Open hearth steel works.

Q. And had they completed anything of their improvements?

A. Yes; they had completed three blast furnaces.

Q. So that they were getting some returns from them?

A. Yes.

Q. But not any yet, I take it, from the other mill, the open hearth?

A. They had one open hearth furnace in operation at the time, and the rail mill was in operation, but not on the complete reconstructed basis.

Q. Do you know what the floating indebtedness of the company was at the time the Steel Corporation took it over?

A. I think at the time we had—I do not remember exactly. It is quite a while ago.

Q. I have a memorandum here showing $4,168,103. Do you know whether that is about right?

A. I would say that that is rather more than my recollection would suggest. You must have taken into account in that statement the unexpended balances on contracts.

Q. Suppose I give you a few of the details. It might help you.

A. All right.

Q. Amount then past due $300,000, maturing at early date, $1,334,312, total, $1,634,312, accounts payable, $2,533,791, totaling the amount I first mentioned. Is that about right?

A. It might have been but I am surprised that the amount is as large as you have stated.

Q. It is taken from the books of the Steel Corporation.

A. It may be right. Of course it would show at that time the uncollected payments on stock subscriptions, three and a half million; does it not?

Q. The Memorandum I have now shows nothing——

MR. DICKINSON: Are you using that to refresh his memory, or offering it in evidence, or what?

MR. LINDABURY: I am cross examining the witness on his testimony.

MR. DICKINSON: But the witness has never seen that.

MR. LINDABURY: It does not make any difference whether he has or not.

MR. DICKINSON: You are stating what that shows. You are stating that you have a memorandum there from the corporation, and what that shows.

MR. LINDABURY: Yes.

MR. DICKINSON: I object to that in examining this witness. If he knows anything about the memorandum and can identify it to refresh his memory, that is perfectly competent.

MR. LINDABURY: To the extent of my sinning, Judge, on account of which I will repent in sack cloth and ashes or anything else, is in telling him it is from the corporation's books.

MR. DICKINSON: I do not want repentance; I want desistance.

MR. LINDABURY: You want reformation?

MR. DICKINSON: Yes.

MR. LINDABURY: I will repent.

MR. DICKINSON: Repentance goes before reformation.

By MR. LINDABURY:

Q. The company raised this money which it put in from its existing stockholders, did it not?

A. It did.

Q. By issuing new stock, of which they took pro rata amounts?

A. Yes.

Q. It was in the nature of an assessment upon the old stock, was it not, for which they got new stock?

A. It was an increase of capital with the privilege to stockholders to subscribe for that new capital.

Q. Which they generally did?

A. Which they always did.

Q. There were not many stockholders, were there?

A. Oh, quite a number.

Q. Were there small ones outside of the syndicate?

A. There were.

Q. Did they take too?

A. They did.

Q. This ten million was raised—I mean seven millions.

A. There were about eight millions of stock increase, I think you will find.

Q. That was done in three allotments, was it not?

A. Some testified that it was three; my recollection is it was two.

Q. I do not remember whether it was you or someone else who said three.

A. I said two, and that is my present recollection.

Q. My understanding—and let me say of your testimony—is that there were three.

MR. DICKINSON: What testimony are you speaking of?

MR. LINDABURY: The Stanley Committee testimony.

MR. DICKINSON: Do you think it is competent for you to state what your understanding was from that testimony?

MR. LINDABURY: Don't you?

MR. DICKINSON: No; I do not.

MR. LINDABURY: Then I will not do it any more.

MR. DICKINSON: Thank you. I am objecting to your stating your understanding of the testimony of other witnesses.

By MR. LINDABURY:

Q. Whether there were two or three allotments of stock, the last one had not been fully paid up, had it?

A. No, sir; it had not. One payment on it had been made.

Q. And do you remember how many payments were to be made, under the terms of the subscription?

A. I think there were four, and one had been paid.

Q. So that a quarter of the last subscription only had been paid?

A. I think so.

Q. And do you remember whether those payments were evenly divided so that 25 per cent. had been paid?

A. I think they were substantially in equal amounts. There may have been some twenty and some thirty and some twenty-five; but my recollection is they were about equal installments.

Q. And about how much remained unpaid?

A. About three and a half millions, according to my recollection.

Q. Then these stockholders who sold out were liable for subscriptions amounting to three and a half millions that were unpaid at the time of the sale, were they not?

A. Whatever the amount was, which I think was about three and a half millions.

Q. And when did the next payment come due?

A. I am not certain as to that. It might have been in February. That would be my recollection.

Q. And do you remember about when the others came due?

A. I do not.

Q. Or how soon the total payments were to be made?

A. I have not seen any of those papers since they were turned over to the corporation at the time of the sale.

Q. I will ask you whether or not, in addition to the floating indebtedness of $4,168,103 at the time of this sale, the

Tennessee Coal & Land Company was committed on construction contracts and improvement work then underway to the further amount of $1,830,000?

A. I have no such recollection.

Q. You do know that they were committed on construction contracts not yet completed, do you not?

A. I do.

Q. You do not remember the amount?

A. My recollection is that the uncompleted contracts as shown on our appropriation statement at the time they turned the property over were about equal to the unpaid balance on stock subscriptions.

Q. The amount that I mentioned is much less?

A. That would be about three and a half million unexpended balance.

Q. The amount I mentioned in my question is $1,830,000. Judge Dickinson will not let me tell you where I got that.

A. My recollection is taken from the figures that were presented at that time, which covered not only its financial condition, but the balance due on stock subscriptions unpaid, and the commitments and construction program that were uncompleted and not matured.

Q. I will ask you whether the total floating debt and the contractual obligations taken together did not amount to $5,998,103, practically $6,000,000? What do you say to that?

A. Those figures I could not verify from recollection.

Q. Do you think they are approximately correct?

A. I have no recollection on the subject.

Q. Did I understand you that the company——

MR. DICKINSON: I object to that question. How does he know what you understood? Ask him what he said, not what you understood.

By MR. LINDABURY:

Q. Did I correctly understand you this morning as saying that this company at the time of the transfer had an adequate water plant, water works?

A. I did not say that.

Q. I thought you did, and I wondered if I misunderstood you.

A. I made no reference to a water plant.

Q. In fact, they did not have a satisfactory water supply?

A. Not a good water supply, no.

Q. The Steel Corporation, after it took over this stock, constructed one, at a very large expense, did it not?

A. I believe so.

Q. You have a knowledge, I suppose, of what has gone on since then?

A. I have in a general way, yes.

Q. Costing more than a million dollars?

A. I have no doubt it did.

Q. And they have taken this railroad that you spoke of, the Birmingham Southern Railroad, and they have put in over a million dollars in that in extensions and betterments, have they not?

A. As to that, I do not know; but they may have readily spent a million dollars in its extensions and betterments.

Q. It was in such a condition as to make that a proper expense, was it not?

A. I should say yes.

Q. And they enlarged and extended the rail mill, did they not?

A. I do not know that they did. I think our construction programme was carried out to the letter; no changes made in it.

Q. Perhaps it was started and not completed when they took hold.

A. That is about the size of it.

Q. But did they not spend $650,000—

A. That was part of our unexpended balance, three and a half million dollars.

Q. Of course, they did not secure those subscriptions?

A. We secured a waiver.

Q. The stock was sold ex the subscription?

A. Yes, sir.

Q. So they were cancelled?

A. Yes.

Q. And consequently whatever in addition they put in they had to supply from other sources?

A. Yes.

Q. Now, the coke plant. They built a new coke plant, did they not?

A. They did, I believe.

Q. At a cost of over half a million dollars?

A. Probably more than that.

Q. That is right. That was a proper thing, a necessary thing to do in the proper development of the property, was it not?

A. I should consider it was very proper.

Q. Your properties, that is, the Republic properties down there, from your former connection with the Tennessee Coal & Iron makes you very familiar with the proposition, I understand?

A. I consider I am reasonably familiar with it, yes.

Q. So I am told. They built an electric power plant, after they got it, did they not?

A. They may have extended the one we put there.

Q. And they enlarged the station and added to it, making an expenditure altogether of $526,000?

A. That is quite probable.

MR. DICKINSON: I do not exactly understand the inquiry. Are you inquiring whether they expended these moneys down there?

MR. LINDABURY: I am asking him whether he knows that these amounts were expended.

THE WITNESS: I do not say that I know that these exact amounts were expended, but I am not surprised at the amounts mentioned.

By MR. DICKINSON:

Q. But you are not testifying as to the amounts?

A. I am not testifying as to the exact figures.

MR. LINDABURY: He is testifying that what they have done would approximately cost that, and that it was necessary.

A. I have testified to that, and I do think so.

By MR. LINDABURY:

Q. Taking the expenditures made and the development or

completion of the development of the property, I will ask you —no, you may scratch that out, and I will put the question in different form, because Mr. Dickinson would object to that.

MR. DICKINSON: I am perfectly willing to have you put in the figures taken from your books, subject to examination and exception. I am willing to have you put in any statement showing what your expenditures were.

MR. LINDABURY: Very well. I have it all in now, pretty well.

MR. DICKINSON: I would have agreed to that at any time.

MR. LINDABURY: I knew you and I would agree if we ever got a chance.

I want to ask this witness a few questions about this thing anyway.

MR. DICKINSON: I did not mean to interrupt any examination you had in mind or any plan of examination you had in mind.

MR. LINDABURY: I understand.

By MR. LINDABURY:

Q. Did not the expenditures of the Steel Corporation down there in the development of this property amount to $15,541,000 or thereabouts? Did they make expenditures of about that value, as nearly as you could estimate?

A. I would answer that question this way: that from what I have seen myself as to the extensions made since I have left the property, I think what has been expended has been wisely and necessarily expended. As to the amount, I do not know.

Q. Well, approximately, what would you think?

A. I have not gone over it carefully enough to make even an approximation.

Q. It would amount to a good many millions?

A. A good many millions, yes.

Q. You got a large order from the Harriman lines for rails some time before the sale?

A. We did.

Q. About six months before?

A. That is what I stated, according to my recollection; something like that.

Q. How large were the preceding orders you had had from them?

A. They were small orders.

Q. About how large?

A. Oh, from ten to fifty thousand tons.

Q. Just for experimentation, I suppose?

A. Yes. For trying out the southern rail.

Q. Do you know what was done with them?

A. Which rail?

Q. Those prior rails that you furnished, the experimental rails.

A. They were consumed and paid for.

Q. I suppose they were made like experimental rails are generally made?

A. At a very high cost.

Q. At a cost, way beyond the selling price, were they not?

A. We made no money on the rails——

Q. Hold on. You will have Mr. Dickinson objecting to my question if you do not answer it. They were made at an expense much above the selling price, were they not?

A. Those experimental ones?

Q. Those experimental rails.

A. I think probably a part of them were and a part of them were not.

Q. Do you think any of them were made at a cost not exceeding the selling price?

A. Yes.

Q. Take the large order. Do you know what it cost to fill that?

A. Probably as much as we got for them.

Q. You stated, did you not, that $29 a ton was the price?

A. Yes, sir.

Q. Do you not know that it cost $30 a ton to make them?

A. It ought not to have cost that much.

Q. It ought not to cost over $29?

A. It ought not to cost that much. Most of them ought to be made under the new equipment.

Q. You do not know what it cost to make them?

A. I was not there when the rail was made, and I do not know.

Q. I think you said it ought to have cost as much as you got for them.

A. On the old equipment.

Q. I do not know whether it was the old or not, but you made some such remark as that, that you anticipated that they would cost as much as you got for them.

A. We expected that when we sold them.

Q. But you did not expect that you would actually lose money?

A. We did not expect to continue in operation that kind of equipment, which we knew was obsolete; the equipment on which the rails were made during the period of construction.

Q. You had great expectations at the time you were holding the property, did you not?

A. In what respect?

Q. In respect to the future of the property. Your expectations were always good, were they not?

A. Always.

Q. And high?

A. Yes.

Q. And that had been the history of this company for more than twenty years, had it not?

A. I do not know as to what the expectation of the owners of the company had been for twenty years.

Q. The company had been in existence and had been exploited by various owners for upwards of twenty years, had it not?

A. And more.

Q. And more?

A. Yes. It was born the same year I was born. That was in 1860.

Q. It had not been nearly as successful, though? The company had never made a success in the hands of any of its various owners, had it?

A. I do not think so.

Q. It had been a foot-ball in the money markets of the country, had it not, more or less, for all these twenty or thirty years?

A. It was so reported. I had no knowledge of it.

Q. You said something about your coal properties, and the sale of your coal; and you did pretty well, I take it from what you said, in the disposition of your coal?

A. We made money on coal sales, always.

Q. Did you sell a considerable amount of coal?

A. I think so.

Q. And in the southern market?

A. Altogether.

Q. What competition did you have in that market?

A. We had Pennsylvania competition by river, and we had southern competition, Tennessee, Kentucky, and all around.

Q. Down the river?

A. Yes.

Q. The competition all came down the river? I mean, it came from up the river?

A. It came from Alabama and Tennessee mines, shipping by rail as well as by water.

Q. And you thought of this slack water canal project chiefly in connection with the marketing of your coal, I take it from what you said this morning?

A. That was one thought that we had in connection with it.

Q. That was the principal one, I thought you said?

A. I did, so far as immediate results were concerned.

Q. But——

A. (Interrupting.) Ultimately——

Q. When it came to the limitless future——

MR. DICKINSON: Let him finish. Let him answer.

THE WITNESS: Ultimately it would be a means of reaching the export market, also.

By MR. LINDABURY:

Q. It would be the means of reaching the export market for anything that you had to export?

A. Yes. Our intention was to extend the railroad to the river. That is the way we would make the cheap transportation.

Q. Do you mean the railroad from the mines? What railroad?

A. The Birmingham Southern.

Q. From the mines to the Alabama River, you mean?

A. To the Warrior River.

Q. What became of that project for slack water navigation?

A. It is substantially complete. I believe it is complete all but the upper two locks.

Q. Are they using it now?

A. It is not complete. They will use it, unquestionably.

Q. It cannot be used until it is complete?

A. They will use it, undoubtedly.

Q. What does that involve—a lot of digging?

A. It involves building dams.

Q. With gates?

A. With gates, yes, sir.

Q. With locks, I mean?

A. So as to have slack water navigation. It is the same class of improvement as those on the Ohio River.

Q. You have not got it yet?

A. No. It is coming, however, and it will be a great thing for the South when it is completed, too.

Q. With respect to your iron products, you had no northern market, I take it from your testimony, for any iron products except pig iron at this time?

A. We did not ship anything except pig iron.

Q. What else could you make beside rails?

A. Plates and bars.

Q. They were only disposed of in the Southern market?

A. Entirely so.

Q. You did not sell any pig iron into the Northern market except what you could not dispose of in the Southern market, I take it?

A. We sold the larger part of our pig iron north.

Q. That was because there was no market south for it?

A. Yes. At that time I think we sold about 40 per cent south and 60 per cent north.

Q. How much competition did you have in the Birmingham District?

A. We had ample competition.

Q. Who were your competitors?

A. Sloss-Sheffield and the Republic Iron & Steel, the Southern Steel, the Birmingham Coal & Iron,—several companies.

Q. The Woodward?

A. And the Woodward Iron Company.

Q. And all of those still exist, do they not?

A. All of them are in operation today except the Southern Steel, I believe.

Q. And they are good, strong companies, are they?

A. Some of them are.

Q. The Republic Iron & Steel Company, for instance?

A. We think so.

Q. The Republic is a flourishing affair, is it not?

A. Reasonably so.

Q. What about the Sloss-Sheffield?

A. I do not know as to its affairs.

Q. And the Woodward?

A. That is a private corporation.

Q. They are all private corporations, are they not, including the Republic?

A. I should not call the Republic a private corporation. Its affairs are as well known as the affairs of the Steel Corporation. We indulge in just as much publicity as you do.

Q. You mean the affairs of the Woodward Company are not published? That is the sense in which you use the word "private"?

A. Exactly.

Q. It is a family affair?

A. It is a family affair. It is owned by the Woodward family.

Q. That is what you meant when you used the expression, "private corporation"?

A. I meant that it was a private corporation in the sense that they did not indulge in public reports.

Q. In a legal sense, of course, all of them are private corporations.

A. Yes. I meant in the general acceptance of the term: in the ordinary use of the word "private."

Q. Where do they market their pig iron?

A. About as we do,—north and south.

Q. There is not an unlimited demand for pig iron in the South, is there?

A. No, sir; there is not an unlimited demand anywhere.

Q. There is not as large a demand for pig iron in the South as the capacity of the Birmingham mills could fill, is there?

A. No; we would not be selling north if there were.

Q. Why not?

A. Because of the lack of development. There is not the same density of population; not the same number of mouths to feed.

Q. Why would you not be selling north; that is what I mean.

A. Because there is not the demand south to absorb the output.

Q. Why would you not sell north if there was an adequate demand south?

A. We would not.

Q. Why not?

A. On account of the cost of carriage and all that.

Q. That is what I am coming to. What is it?

A. As a general proposition, about $4.25 a ton to the lake country.

Q. What does it cost you to make a ton of pig iron?

A. That varies somewhat with the class of product.

Q. Give us some sort of an average.

A. As a general proposition, $9 a ton, probably, would be within the approximate cost of the average furnace. Some do better and some not as well.

Q. $4 added to that is a very considerable item, is it not?

A. It is.

Q. Where do your pig iron shipments ordinarily cross the Ohio River when you ship north?

A. It depends on the direction north they are going.

Q. What is the principal northern market?

A. We ship to Chicago and we ship to Kansas City. We ship throughout the United States. We ship to Boston and Maine.

Q. Is Cincinnati a good market?

A. Yes.

Q. That is about the nearest northern market, is it not?

A. Cincinnati and St. Louis are two good markets.

Q. They are your nearest northern markets?

A. Yes, sir. Then there is less local competition at those two points.

Q. Those are ideal points?

A. They are the best markets that the south has in the north.

Q. Can you put a ton of pig iron down at Cincinnati as cheaply as Pittsburg can, for instance?

A. What we can do is not what some others can do.

Q. I mean——

MR. DICKINSON: Let him answer.

THE WITNESS: I cannot answer his question the way it is put and give an answer that would satisfy me.

MR. LINDABURY: Strike that question out, and I will ask it in another way.

By MR. LINDABURY:

Q. Could you, the Tennessee Coal & Iron Company, in 1907, put a ton of pig iron down in Cincinnati as cheaply as the Pittsburg furnaces could, or the Chicago furnaces?

A. Yes, I think so, competing with the class of products we ship, foundry iron.

Q. I am speaking of pig iron.

A. Bear in mind that the Tennessee Company ships north nothing but foundry iron and some basic, that is steel-making iron; and most of that steel-making iron at the time I was there, was sold in St. Louis and along the Ohio River to the smaller steel plants and steel casting plants.

Q. You think you could save enough on the cost of production to overcome the freight rate from Birmingham to Cincinnati?

A. I do, and we are doing it to-day.

Q. What would you say as to Chicago?

A. We are shipping iron into Chicago to-day.

Q. Could you put a ton of basic pig down in Chicago as cheaply as the Chicago furnaces?

A. No.

Q. I think you said that this morning, did you not?

A. I did. That is why I say you must be careful as to the kind of pig iron you are talking about.

Q. I think you said this morning that they could make a ton of basic pig iron in Chicago as cheaply as it could be made in Birmingham?

A. I said some producers could.

Q. It could be made as cheaply, you said, in Chicago, as it can be made in Birmingham. You said that, did you not?

A. I did not put it quite that way.

Q. Let us have your way of putting it, then.

A. I said it was being made, I thought, approximately as cheaply as it is being made at the present time.

Q. In Birmingham?

A. Yes.

Q. By whom, in Birmingham?

A. By the average producer, as at present equipped, competing with a better equipped plant in the north.

Q. Then with four dollars a ton freight, of course, the mills at Birmingham could not compete with the Chicago mills in the Chicago market, could they, on pig iron?

A. Not the southern high-cost mills.

Q. Not the what?

A. The high-cost producers south could not successfully compete with the low-cost producers north, under those conditions.

Q. You spoke of the average cost of production in the south. You mean there are some who make it enough cheaper than that price down there to enable them to compete?

A. Very much.

Q. That is, there are some who make it four dollars a ton cheaper, you say, than the average?

A. To put that so that it is entirely clear to you, not as an answer to your general inquiry, I would state that we can make pig iron I think several dollars a ton cheaper than a good many producers in the south.

Q. This is getting interesting.

A. Consequently when you talk in general terms you necessarily qualify my remarks.

Q. I understand that. Let me get at it this way: You say that basic pig is made in Chicago more cheaply by the mills of the Steel Corporation than the average cost of producing it to-day in Birmingham?

A. I think that is probably true.

Q. Do you mean to say that you, or anybody else there, are able to make it for four dollars a ton cheaper than the average cost?

A. I think so.

Q. I should think you would get all the business pretty soon.

A. We have had all we wanted. We are running 100 per cent. where the balance are shut down.

Q. By "we" I understand you to mean the Republic?

A. Yes, sir.

Q. Is the Republic Iron & Steel Company making it cheaper than anybody else down there?

A. No; making it cheaper than many.

Q. There must be somebody then who ought to go out of business and are in a fair way to do so.

A. Some are out of business.

Q. You are not speaking of them, are you?

A. I am.

Q. You mean you are making it four dollars a ton cheaper than those who are out of business?

A. There are a good many idle furnaces down south.

Q. Yours are not idle?

A. We have been running 100 per cent for the last eighteen months.

Q. Are you running full time now?

A. We have never been running any other way.

Q. Is the Republic Steel & Iron Company making any more iron in the south now than they were five years ago?

A. We are.

Q. You are improving all the time?

A. We are.

Q. What about the Woodward Company; are they improving?

A. They are.

Q. What about the Sloss-Sheffield Company; are they improving?

A. I would rather not talk about my neighbors.

Q. Generally the business is in a prosperous condition down there, is it?

A. I would say not.

Q. Generally not?

A. Generally not.

Q. How does it compare now with what it was when the Steel Corporation went down there? I am interested to know whether the Steel Corporation has acted as a blight on that community.

A. I do not see that the change of ownership of the Tennessee Coal and Iron Company has had anything to do with the commercial conditions down there, one way or the other.

Q. So you think that they, coming there as strangers, have done just as well by the south as you were doing?

A. I think they have tried to.

Q. Nobody could do better than that, could they?

A. I do not think so.

Q. From 1900 to 1910 the consumption of pig iron in the north has doubled, and in the same period the consumption in the south has remained stationary, 2,500,000 tons per annum? Is not that so?

A. Yes, sir.

MR. DICKINSON: Is the witness asked whether that is true or not?

MR. LINDABURY: Yes.

MR. DICKINSON: Just read that question.

(The stenographer read the question as follows:)

"Q. From 1900 to 1910 the consumption of pig iron in the north has doubled, and in the same period the consumption in the south has remained stationary, 2,500,000 tons per annum? Is not that so?"

A. Do you mean production?

By MR. LINDABURY:

Q. Yes.

A. Then my answer stands as I made it, "yes, sir."

Q. I find that I was right when I said "consumption," and that is what I mean.

A. I do not know anything as to statistics on the matter of consumption .

Q. You would answer that way as to the matter of production, then?

A. I would put it on the basis of production, and I should say your figures were about right.

Q. Yes.

A. We have no data or statistics of consumption.

By Mr. Dickinson:

Q. Is your answer that the production had been stationery in the South?

A. I think it has been substantially so.

Q. During what period?

A. The increase has been very light. During the last decade there has been a very slight growth.

Q. In the production of iron?

A. Yes, sir. There is a reason for it.

By Mr. Lindabury:

Q. And do they not now send north as large a percentage of their production as they did ten years ago?

A. No; they do not.

Q. They consume a larger part of it down there?

A. Yes, sir.

Mr. Lindabury: I think you had better go. Judge, do you consent?

Mr. Dickinson: Certainly.

Mr. Lindabury: He wants to catch a train.

Mr. Dickinson: Please return in the morning, Mr. Topping, at 10:15.

(Thereupon, at 3:54 o'clock p. m., the hearing was adjourned until to-morrow morning, May 16, 1912, at 10:15 o'clock a. m.)

NINTH DAY.

ROOM 210, CUSTOM HOUSE,
NEW YORK CITY,
THURSDAY, MAY 16, 1912.

The hearing was resumed at 10:15 o'clock a. m., before SPECIAL EXAMINER, JOHN ARTHUR BROWN.

Appearances the same as heretofore noted.

JOHN A. TOPPING,

the witness under examination at the time of adjournment, resumed the stand for further cross examination.

By MR. LINDABURY:

Q. Do you know what per cent the output of the Tennessee Company was of the steel product of the country at the time of this sale?

A. What per cent the Tennessee Company produced of the steel?

Q. Of the total steel products of the country. About one per cent, was it not, or 1.7 per cent?

A. That or less, I should say.

Q. You spoke of pig iron being the one product of the Tennessee Coal & Iron Company which you marketed in the northern markets or north of the Ohio.

MR. DICKINSON: I beg your pardon. I understood him to say foundry iron and basic steel.

THE WITNESS: No, sir, I did not. Basic pig iron. Some basic pig iron and foundry iron exclusively.

MR. DICKINSON: The two products?

THE WITNESS: The only products sold north of the Ohio River were pig iron products.

By MR. LINDABURY:

Q. That is the way I understood you.

A. That is what I stated.

Q. Did the Steel Corporation sell pig iron?

A. They did not.

Q. So they did not compete with you in the sale of pig iron?

A. No, sir; they did not.

Q. They did not compete anywhere?

A. They did not.

Q. North or south?

A. They did not.

Q. Speaking of the cost of producing pig iron, the differential in cost which you spoke of would not apply, would it, clear up to the production of the finished product?

A. I think not.

Q. While pig iron could be manufactured more cheaply at Birmingham than some of the northern furnaces, the difference that you speak of in cost of production would not apply to finished products?

A. It would not, on account of labor inefficiency.

Q. Take the matter of rails. Do you know whether they could be manufactured cheaper at Birmingham than, for instance, at Pittsburg? I will ask you whether they were, not whether they could be.

A. They were not, as a matter of fact.

Q. How about Chicago?

A. They were not manufactured——I think, at any point where they were manufactured they were made at less cost than we made them, at the time I had charge of the property.

Q. The ores in the Birmingham district are not of the same grade as in the northern district, the Lake Superior district, for instance, are they?

A. Not in the sense that they contain as high a percentage of metallic content.

Q. That is, they are rated according to the metallic content?

A. Yes. Other elements enter into the question besides metallic contents.

Q. Speaking generally, they are not of as high a grade as northern ores, are they?

A. No, sir, they are not.

Q. And the successful production of iron from those lower

grade ores must require a larger scale of production, I judge, than in the case of the higher grades. Is that the fact?

A. No, not in that sense.

Q. And in manufacturing from those low grade ores, is it not necessary to combine the open hearth and Bessemer processes to some extent?

A. No, sir.

Q. Or the Bessemer——

A. (Interposing.) And basic?

Q. Yes.

A. And Bessemer?

Q. Yes.

A. No, sir.

Q. No combination of the ores?

A. It is not essential, no, sir.

Q. Is it practiced?

A. It is.

Q. Because it is thought to be economical, I suppose?

A. We thought it suited our purposes best to combine the basic and Bessemer operations, the duplex process, so-called.

Q. It is supposed to produce a higher grade of product, is it not, when you combine them?

A. No, sir.

Q. It is done for economical purposes only, is it?

A. It is done for quantity. You get more speed in your operation.

Q. Therefore a larger production in a given time?

A. Yes, sir, in a given open hearth furnace.

Q. To go back a moment to the Sheet Steel Company's production, do you know what that is now as compared with the total production, what the present percentage of the production of the Sheet Steel Company is?

A. Approximately I do.

Q. What is it?

A. I think something like 50 per cent.

Q. Is it not 47 per cent. at this time?

A. It may be. I said approximately.

MR. DICKINSON: You say it is approximately what?

THE WITNESS: Approximately 50 per cent.

By MR. LINDABURY:

Q. Do not the independents, that is, the manufacturers of the same products outside the Steel Corporation, manufacture 53 per cent? Of course, they manufacture whatever the difference is.

MR. DICKINSON: He has already said that he thinks it is approximately 50 per cent.

MR. LINDABURY: I am asking him if it is not 53 per cent that the independents manufacture.

MR. DICKINSON: I think he said he did not know, and he has answered the question.

MR. LINDABURY: Of course if he says that one company manufactured approximately 50 per cent, then, of course, the other would manufacture approximately 50 per cent.

THE WITNESS: Three per cent is not a very material difference.

By MR. LINDABURY:

Q. No, and you have not the figures exactly, I take it?

A. My recollection is that it is approximately 50 per cent; it may be 47 per cent.

Q. The products of the independents has been gradually increasing since the Steel Corporation was formed, has it not?

A. Very rapidly.

Q. Both in proportion and quantity?

A. Both.

Q. The independents have very largely increased the quantity of production, have they not?

A. They have.

Q. And the Sheet Steel Company also?

A. I think so.

Q. But the independents have increased more rapidly?

A. Naturally, in view of the previous statement made at the time of the organization in respect to the percentage they then controlled.

Q. What I mean is that the increase relative to the amount that the independents have produced has not been due to the falling off of the product of the Sheet Steel Company, but to the great increase in the product of the independents.

A. The great increase in the demand of the country and the natural growth to meet that demand by independent companies.

Q. The actual tonnage of the Sheet Steel Company, if I understand it, has increased, but its percentage of the whole has decreased?

A. That is true.

MR. DICKINSON: Of what time are you speaking?

MR. LINDABURY: From the time of the organization of the Steel Corporation down to the present time?

MR. DICKINSON: You are speaking of the production, now, of the Sheet Steel Company?

MR. LINDABURY: Yes; the Sheet Steel Company.

THE WITNESS: The Sheet Steel Department of the American Sheet & Tin Plate Company, he means, of course.

MR. LINDABURY: I asked about the Sheet Steel Company.

THE WITNESS: That is not in operation. It is the Sheet Steel Department of the American Sheet & Tin Plate Company.

MR. LINDABURY: The name having been changed.

THE WITNESS: It was consolidated at the time I was president of the two companies.

MR. DICKINSON: I knew that corporation had been merged in the other and you are asking about the Sheet Steel Company, and that could not apply at this time.

MR. LINDABURY: My question was a little blind. I had forgotten that change.

THE WITNESS: And I corrected you.

By MR. LINDABURY:

Q. You have corrected me that the Sheet Steel Department of the Steel Corporation (which is a good name for it) has increased its output but that its percentge of the total output has steadily decreased?

A. Yes.

Q. You mentioned yesterday the fact that when you changed your price on some of your products a year or more ago, you informed Judge Gary?

A. I did.

Q. And other manufacturers.

A. I did.

Q. Of your intention.

A. I did.

Q. When you informed Judge Gary and your other competitors a year or so ago of your intention to reduce the price of some of your products, why did you do it?

A. As a matter of business courtesy.

Q. Had you ever entered into any obligation to do it?

A. No, sir; I did not consider I had.

Q. Was the information given from any sense of contractual or other obligation?

A. None whatever.

Q. When was it that you gave this information?

A. I met Judge Gary and a number of other manufacturers in our own line of product, during a meeting of the Iron & Steel Institute in the rooms of the Iron & Steel Institute.

Q. And where was that meeting?

A. In the Hudson Terminal Building.

Q. And when was it, approximately?

A. Some time after May 24th.

Q. Did you give the year?

A. I think it was May 24th.

Q. What year?

A. 1910, I think.

MR. REED: 1911, wasn't it?

THE WITNESS: 1911, was it?

MR. SEVERANCE: Last year.

THE WITNESS: Last year.

By MR. LINDABURY:

Q. That would be 1911?

A. 1911.

Q. How long has this Iron & Steel Institute been in existence?

A. A couple of years.

Q. Are you a member of it?

A. Yes, sir.

Q. And many manufacturers?

A. All of the manufacturers and many of the merchants of the United States.

Q. How many persons were in attendance upon that meeting?

A. Eight or ten.

Q. Was this a regular meeting or a special one?

A. It was a meeting, as I recall it, of the directorate of the Institute, of which I am a member, and I took advantage of the opportunity to convey the information that I desired to spread, and this was also published.

Q. Was the meeting called for the purpose of giving this information or taking any action upon the subject?

A. I do not recollect.

Q. Now, with respect to the Republic Iron & Steel Company. I think you stated that that company had a considerable amount of ore down in the Birmingham district.

A. We had.

Q. Would you mind telling us how much?

A. I think we publish about 88,000,000 tons as our reserve.

Q. What is your annual draft on that?

A. Something like 700,000 tons a year; 650,000 to 700,000, roughly.

Q. That, at the present rate of consumption, therefore, gives you a supply for two or three hundred years, does it not?

A. A great many years, yes.

Q. I believe you stated that you have ores in the Lake Superior District also, did you not?

A. We have.

Q. And have you not some also in Canada?

A. We have not.

Q. None in Canada?

A. No, sir.

Q. Have you any ores outside of those two districts?

A. We have not.

Q. How much have you in the Lake Superior District?

A. 40,000,000 tons, approximately.

Q. And what is your annual draft on that?

A. About 2,500,000 tons.

Q. Do you remember what your average draft on the Lake Superior mines has been during the last three years? Looking

at your annual report I make it somewhat different from what you have stated.

A. I would say approximately from 1,500,000 to 2,000,000 tons. It varies somewhat.

Q. I think it amounts to a million and a third, does it not, during the last three years?

A. You mean an exact average for the three years?

Q. Yes.

A. It might have done so. I say a million and a half approximately.

MR. DICKINSON: Maybe I misunderstood you. I understood you to say half a million.

THE WITNESS: A million and a half.

By MR. LINDABURY:

Q. You are speaking of the present time?

A. The average for the last three years I would say would be a million and a half. If you have the figures from our report, which are accurate, it may have been 1,300,000.

Q. What are the names of your mines?

A. I could not name them; there are a great many of them.

Q. They are on the Missabe Range?

A. On all the ranges.

Q. Chiefly on the Missabe?

A. Largely.

Q. Any on the Vermilion?

A. I think not.

Q. Any on the Marquette?

A. Yes.

Q. The Menominee?

A. Yes.

Q. Gogetic?

A. Yes, sir.

Q. Then on the basis of a million and a half a year you have a supply for some twenty-five years, have you not?

A. Approximately so.

Q. And do you think it is necessary for a manufacturing company to have a supply that will last that long?

A. They should have a supply lasting longer than that.

Q. And is it desirable in the business in which you are engaged for a company to own its ore property rather than to purchase its supplies in the market?

A. Essentially necessary, in my opinion.

Q. In speaking of ownership, I did not mean in fee as distinguished from leasing. I do not know whether you did or not.

A. I did not express it.

Q. You did not mean to distinguish between owning in fee or owning by way of leaseholds?

A. I did not.

Q. But one way or the other you think it is essential?

A. Absolutely so.

Q. You think a corporation ought to have a supply exceeding 25 years?

A. Unquestionably so.

Q. What length of supply ought they to have?

A. I would feel much more comfortable with 50 years' supply, rather than 25.

Q. Taking the Birmingham and the northern ores together, you have an average supply in excess of 50 years?

A. Yes, but you can hardly apply it that way on account of the unavailability of the southern ore for northern operation.

Q. You have to take them as separate properties?

A. You have to treat them separately.

Q. When did you acquire your northern ores, over what period?

A. During my administration I have more than doubled our ore reserves.

Q. When did your administration commence?

A. Within about six years.

Q. Six years ago?

A. During all that time.

Q. Did the company have about half of its northern ore before that time?

A. We had about 19,000,000 tons when I took charge of the property.

By Mr. Dickinson:

Q. That is six years ago?

A. Approximately that; yes, sir.

By Mr. Lindabury:

Q. Why have you added so largely since?

A. In order to take care of large investments in manufacturing properties and blast furnaces.

Q. Because you needed them in the development in the future of your operations?

A. Absolutely so.

Q. How lately have you made purchases?

A. We have developed the Potter mines within the last year.

Q. When did you acquire your southern ore property?

A. During the early part of 1906, we added nearly double our holdings there; that is, the Potter ore properties that I acquired at that time.

Q. Have you purchased any southern ore properties since 1906?

A. I have not.

Q. So that about half of the southern ore properties were owned by the company at that time?

A. Approximately so.

Q. What plants did the Republic have at first? That is, where were their plants located in the development of their business?

A. We had originally something like 29.

Q. Located where?

A. Scattered operations, almost entirely engaged in the manufacture of iron, scattered over eight or ten states. I do not remember exactly.

Q. Did you manufacture pig iron?

A. We manufactured bar iron.

Q. When were they bought?

A. In 1901, I think from memory, that was the date.

Q. Were any of them in the South?

A. Two.

Q. Where were they?

A. One at Birmingham and one at Gate City.

Q. Where is Gate City?

A. A short distance from Birmingham, Alabama.

Q. They are both in the Birmingham district?

A. Yes, sir.

Q. Where were the northern ones?

A. Well, we had plants located in Ohio and Pennsylvania.

Q. Give the places, please.

A. We had one at Toledo, one at Massilon, one at Sharon, Pennsylvania; three at Youngstown, St. Louis, Chicago, Moline, Illinois; Keokuk, Iowa; Muncie, Indiana, and one at Anderson, I think, and at Brazil, Indiana, two in Alabama, and there were a number of small scattering plants elsewhere. I think there was one at Muskegon, Michigan, and one at Cincinnati.

Q. You said these plants were manufacturing iron. Were they selling it in the market?

A. They were.

Q. In interstate trade?

A. They were.

Q. When did the company begin the purchase of ore properties?

A. It had some ore properties at the time of its inception, a very small amount, six or eight million of tons, as I recollect the history.

Q. Had those plants been engaged in this before the Republic purchased them?

A. They were.

Q. Now, about the additions, how were they made and when?

Mr. Dickinson: This is excepted to as irrelevant, incompetent and having no bearing whatever upon the issues in the case.

By Mr. Lindabury:

Q. What about the additions to the plants of the company? When were they made?

A. I think our Bessemer plant was started in 1903, to the best of my recollection.

Q. Where.

A. At Youngstown, Ohio.

Q. Go ahead and give us the development.

MR. DICKINSON: Just wait a minute. Without repeating my exception, it is understood, is it, that this exception applies to all this character of questioning?

MR. LINDABURY: Yes.

A. I think in 1904 we made some additions to the Bessemer plants, some changes, and in the early part of 1906 I made some very radical changes in the Bessemer, more than doubling its output, and then during the last two years or eighteen months we have again increased our steel capacity.

By MR. LINDABURY:

Q. Where?

A. At Youngstown, and we have practically eliminated all of our scattered iron mills, have concentrated them in the operation at a few points of production, so to-day we produce practically but little iron, and are manufacturing about a million tons of steel per annum.

Q. This I take it was what you call an integrating process, was it not?

A. Yes, sir; that was part of it, the addition of the mineral and coke and blast furnaces, and balancing up operations generally, completed the integrating process.

Q. So that you were able to handle every feature of the process from the mining of the ore to the putting on the market of the finished product?

A. Everything except transportation.

Q. And so far as transportation is concerned, I understand you owned a fleet of vessels on the Lakes to bring your ores?

A. We have three vessels we own, and have an interest or a part interest in some others.

Q. So that the transportation deficiency you referred to related chiefly to the railroads?

A. Entirely so.

Q. Entirely to the railroads?

A. Yes.

Q. You are adequately supplied with Lake facilities?

A. No, not quite; not balanced up. We are large carriers on the Lakes in addition to our own fleet.

Q. There are a good many independent lines of transportation on the Lakes, I believe?

A. A great many.

Q. I judge from your testimony that this integrating process that you spoke of attended your development of the steel end of your business. Am I right?

A. You are.

Q. You did not need that so much, or at all, when you were simply manufacturing iron?

A. No. It was done for economic reasons, and also for trade reasons.

Q. Connected with the making of steel——

A. On account of the increasing demand for steel and the decreasing demand for iron.

Q. And when was it you began to develop the steel end of your business?

A. As I stated a while ago, I think it was 1903 that our Bessemer plant was put up. That was the beginning of our steel business.

Q. And about your Southern development, you told me that you began with two plants down there, two blast furnaces, was it?

A. Rolling.

Q. Two rolling mills in the Birmingham District?

A. Yes.

Q. And what have you done down there in the way of developing plants?

A. Nothing in the way of extending plants, nothing——

Q. You have not added new plants, but have extended them?

A. We acquired the blast furnaces and mineral properties about the time we acquired the Southern rolling mills, at the time of our merger.

Q. Has your product in the Southern field increased?

A. It has.

Q. Largely?

A. In pig iron very substantially.

Q. And in steel, has it?

A. We make no steel.

Q. Were the two plants that you acquired in the Birming-

ham district operated before their acquisition by your company?

A. Our two rolling mills? Oh, yes, and some time since. They were operated prior to our acquisition, and for a number of years after our acquisition, but are not operated at present.

Q. Were they separately owned before the acquisition?

A. They were.

Q. And were operated independently, I suppose?

A. They were, so far as I know.

RE-DIRECT EXAMINATION,

By Mr. Dickinson:

Q. You were asked whether or not you had boats for the transportation of ore, and you said that you had?

A. We have.

Q. Have you any railroads?

A. We have not.

Q. Are you a competitor of the United States Steel Corporation?

A. We are.

Q. State whether or not you are at a disadvantage with the United States Steel Corporation on account of its ownership and control of ore carrying railroads?

A. We are.

Q. Explain how that disadvantage operates. Explain it fully, please.

A. In lower cost of transportation that they have. Of course that means higher cost to us.

Q. A higher cost to you is to your disadvantage and that goes to them, does it?

A. As far as they carry it.

Mr. Lindabury: I object to that as leading and asking for an opinion.

By Mr. Dickinson:

Q. It goes to them as a profit, does it?

A. To the extent they carry it.

Q. And to that extent you suffer a disadvantage with them as competitors?

A. We do.

Q. Do you feel that disadvantage in the trade?

A. Naturally we would.

Q. And do?

A. Certainly we do.

Q. When your corporation was formed, what was the capital stock?

A. $22,000,000.

Q. What is it now?

A. $22,000,000 of preferred stock and $27,000,000 of common stock. It is now $25,000,000 and $27,000,000.

Q. You were then, I believe, producing iron and not steel?

A. Yes.

Q. What proportion of all the iron produced in the United States did your company produce following the organization and taking in of these new companies?

A. I could not tell. It has been a good many years ago, and I was not particularly interested in the matter, and had not looked up the statistics.

Q. Now you are making entirely steel?

A. No, largely steel, I said.

Q. What proportion do you produce of all the steel produced in the United States?

A. About as one million is to twenty-five million.

Q. About one-twenty-fifth.

A. Approximately so.

Q. And what proportion do you produce of the iron that is produced in the United States?

A. We are making about 100,000 tons, and I would say that there are, approximately speaking, two and one-half or three million tons produced in the United States at the present time.

Q. So the proportion would be the proportion of 100,000 to two and a half or three million. Is that correct?

A. Approximately so.

Q. Have you bought any ore in the Birmingham District since 1906?

A. We did during 1906.

Q. But since 1906?

A. We have not.

Q. Mr. Topping, state who were the large holders of iron and coal properties in the Birmingham District in 1907, before the United States Steel Corporation acquired the Tennessee Company?

A. The Tennessee Coal, Iron & Railroad Company; the Republic Iron & Steel Company; the Sloss Iron & Steel Company; the Birmingham Iron Company; they were the principal owners of iron ores in the way of operating companies, although outside of those companies there was quite a large amount of undeveloped ore held by individuals in fee.

Q. They are largely scattered, are they not?

A. Some of them are, and some of them are not.

Q. Are any of those in large bodies?

A. Some are in bodies sufficiently large to operate, yes.

Q. What do you mean by that, that they are in bodies sufficiently large to operate?

A. To make an operation of an economic unit.

Q. For what sized concern, how many furnaces?

A. I should say that there would be no difficulty in operating two blast furnaces.

Q. Can you give the name of any single holder, outside of those you have named, of iron properties in the Birmingham District, or available commercially for the Birmingham District, that exceeds 20,000 acres in any one holding? If so, name who they are.

A. You would not have to have 20,000 acres——

Q. I am not asking you whether you would have to have 20,000, but asking you whether you know anybody that has as much as 20,000 acres, or had that much at that time, outside of these other companies that you are speaking of?

A. There are no 20,000 acre blocks that I know of.

MR. LINDABURY: A humble individual does not inherit as much as that.

By MR. DICKINSON:

Q. Were there any companies holding 20,000 acre blocks at that time, other than those you have named?

A. I think not.

Q. What do you mean by blocks?

A. I mean a large body.

Q. You mean together?

A. Certainly; blocked up, solidified, squared up.

Q. You mean lying contiguous?

A. Certainly.

Q. Outside of those you have named did you know of any holdings in the Birmingham District by any company or individual at that time in 1907 to the extent of as much as 10,000 acres of available commercial ore?

A. I could not designate the name of any one owner of 10,000 acres, no.

Q. You knew generally the character of the holdings of the iron ore properties that were adjacent to the Birmingham district and available for use there, did you not?

A. I have a map of the district. I do not carry those things in my mind, Judge Dickinson.

Q. I understand. I am not asking you for the minute details, but you did know generally?

A. Naturally I do.

Q. In 1907 did you know of any large holdings outside of the companies that you have named? If so, state who they were and the extent of those holdings, as near as you can remember.

A. I cannot give you that information from memory.

Q. You said that you had approximately eighty-eight million tons of iron in the Birmingham District?

A. I did.

Q. How many acres did that cover?

A. I do not remember.

Q. About how much?

A. Well, iron ore in that district yields about forty thousand tons to the acre.

Q. Does it all run evenly?

A. Approximately so, red ore.

Q. So you think that eighty-eight million tons on that basis of yield per acre would indicate the acreage your company had?

A. Approximately so. It should, with the exception of the brown ore holdings, which you cannot estimate in that way.

Q. That lies in pockets, does it not?

A. Yes, sir.

Q. And is very variable, is it not?

A. Yes, sir.

Q. You work out a pocket here, and then have to move over to another place and prospect there?

A. Not at all. You work around a line post or barren spot.

Q. Brown hematite ore, is it?

A. Yes, sir. It is more of a gopher operation.

Q. You were asked about the supply of ore that was in your judgment proper for steel operation looking to the future. I will ask whether or not the iron ore in the Birmingham district was available for the operation of any of the works of the Corporation north of the Ohio River?

A. I think not.

Q. Was there any need of it for the operation of those works north of the Ohio River?

A. I should say not.

Q. Can you recall the date or the day of the week when you notified Mr. Gary and others that you were going to change your prices?

A. I do not and cannot.

Q. Do you know the month?

A. I think it was in May.

Q. Was it in the forenoon or in the afternoon?

A. My recollection is shortly after luncheon, or about one o'clock.

Q. And you say the meeting was in the room of the Iron & Steel Institute?

A. It was.

Q. Was it a called meeting?

A. It was to the best of my recollection.

Q. At your request?

A. No, sir.

Q. Was it a regular meeting?

A. It was.

Q. You attended a regular meeting and then brought this matter up?

A. I did.

Q. Now, Mr. Topping, state, so far as you can, all the individuals who were present at that meeting.

A. I do not know that I can recall all; I can name some.

Q. Name those that you can.

A. Mr. Clark.

Q. Give his initials, will you not.

A. E. A. S. Clark.

Q. State who he was and what his position was.

A. President of the Lackawanna Steel Company.

Q. Yes?

A. Mr. Farrel, Judge Gary was there.

Q. Mr. Farrell, the president of the Steel Corporation?

A. Yes.

Q. And Judge E. H. Gary?

A. Yes. Mr. Willis L. King of Jones & Laughlin.

Q. Vice-president, is he not, of the Jones & Laughlin Company?

A. Yes, sir.

Q. Well?

A. Mr. James Campbell, om the Youngstown Sheet & Tube Company, I think was there. I think Mr. Edward Bailey, of the Central Iron & Steel Company was there.

Q. Edward Bailey?

A. Yes, sir, I think so; and of course the secretary of the Institute was there, Mr. James McCleary.

Q. State what kind of a notice you gave, what you said in regard to cutting prices.

A. I would not put it in that way.

Q. Well, reducing prices, then.

A. I stated to them that I regarded competition and the conditions of trade such that it was to my interest to reduce the prices, and that was what I intended to do.

Q. Did you make any explanation of the conditions of trade, why you had come to that conclusion?

A. I explained that in my published notice.

Q. Your published notice did not ante-date this meeting, did it?

A. No; but the published notice was presented at the meeting.

Q. Was presented at the meeting?

A. I told them what I was going to announce.

Q. Previous to that you had not given any notice, had you?

A. I had not; it was not necessary.

Q. I did not ask what was necessary. I am just asking what you did.

A. I did not.

Q. Was there any discussion there in regard to your reducing prices?

A. There was not very much use of a discussion, and, as a matter of fact, there was not a discussion when I announced my intention.

Q. No objections were raised by anybody?

A. None whatever.

Q. Nothing said about it one way or the other in the way of comment?

A. I do not recollect any specific remark. Naturally they regretted that I felt there was a necessity of changing our policy.

Q. You say naturally they regretted it?

A. They might regret it?

Q. Was that an inference of yours, or from what was said?

A. Nothing was said of a specific nature that I recollect.

Q. Then so far as you recollect, so far as that question is concerned, you simply announced the reduction, and showed the publication you were going to give out?

A. Yes.

Q. And that constituted the whole colloquy on that subject?

A. That ended the chapter, so far as I was concerned, as I felt I was under no obligation to do other than what I thought was right in the interests of our company.

Q. How did it affect the interest of your company to give them notice?

A. A matter of business courtesy.

Q. Just a matter of business courtesy. Did they not understand that before you made any reduction of price you would give such a notice?

A. I do not know what their understanding was.

Q. Did you not understand that they expected you to give such a notice before you reduced prices?

A. I think that I was morally obligated, as a matter of

courtesy, in other words, to give such notice, but I was under no obligation.

Q. You mean you were under no contract or agreement?

A. None whatever.

Q. What do you mean by your being morally obligated? What was the foundation of that moral obligation?

A. A matter of common decency.

Q. A matter of common decency?

A. Yes, sir.

Q. Had you always in the pursuit of your business, with all your competitors throughout the period of your life anterior to that, given them notice when you were going to reduce prices?

A. I have always felt and have always tried to live up to a standard of common decency in my business.

Q. I am not asking you whether you lived up to a standard of common decency in your business. I am asking you whether previous to that time when you reduced your prices, you gave your competitors in that line of business notice that you were going to reduce prices?

A. I may and may not have done it heretofore.

Q. Had it been your practice, and, if so, for how long?

A. We had no established practice in matters of that kind.

Q. You did consider it common decency, however, to do it?

A. Under those circumstances, yes.

Q. Under what circumstances?

A. Under the circumstances that then obtained.

Q. What were those circumstances?

A. Exchanging business information and trying to help one another in our general operations.

Q. Trying to help one another in your operations?

A. Naturally.

Q. What do you mean by operations?

A. In the general conduct of our business, exchange of opinion.

Q. You were trying to help your competitors in the conduct of their business?

A. I was trying to help myself in the conduct of my own business.

Q. And you were trying to help yourself in the conduct of

your own business by telling your competitors when you were going to change the prices?

A. Not necessarily.

Q. That is what you did in that instance, is it not?

A. We preferred to get information from each other rather than from our customers. The buyer is more likely to mislead than the seller.

Q. Now you say you felt under a moral obligation to give that information?

A. Because we were exchanging general information.

Q. And was it not because there was an understanding with you that you would exchange information in regard to reduction of prices before you put those prices into effect?

A. There was no understanding, Judge Dickinson.

Q. Did you attend a dinner given in New York on January 11, 1911, which was comonly referred to as a Gary Dinner?

A. I attended a great many dinners; all of them, possibly.

Q. Did you attend that dinner?

A. I do not remember the date; probably I did.

Q. Probably you did?

A. I do not think I missed any of them.

Q. Did Judge Gary make a speech at that dinner?

A. He always did.

Q. He made one, then, at that dinner, did he?

A. I think so.

Q. Mr. Topping, state whether or not at that time there was a demand in the country for more than 50 per cent of the total producing capacity in the lines of those people who were represented at that dinner on that occasion?

A. I think there was.

Q. Was there enough business to go around for all those who represented concerns at that dinner who were competitors in the same line of business?

A. I hardly think there was.

Q. Was there or not an understanding of those present that there was a necessity for protecting themselves from competition on account of the shortage in business and the inadequacy of the demand for their products?

A. No, sir. There was an understanding, however, that

there was a necessity to protect our own customers at that time against a break in prices.

Q. You heard Mr. Gary speak at that dinner, did you?

A. I did.

Q. Did you or not hear him say that there was not at that time in the country a demand for more than 50 per cent of the total producing capacity in the lines there represented?

A. He may have said that, but I do not agree with him.

Q. But you do agree with him that there was not enough business then to go around?

A. I do.

Q. Did you hear him say at that dinner that there was no possible way of your protecting yourselves from competition except by coming to an understanding that each would be satisfied with a proportion of the business?

A. I have no recollection of it in the way in which you have just put it.

Q. Was there an understanding upon your part at that time that the meeting was for the purpose of so operating that no one would seek to reduce the proportion of business at that period that was controlled by any of his competitors?

A. The only understanding, Judge Dickinson, that I had at that time, was the necessity for protecting my own customers. He had more requests from our own buyers of material to maintain our prices, and the pressure was stronger at that time from our own customers than it was from the manufacturers, in order that they might liquidate their surplus stocks in the time that that price scale existed.

Q. Did you understand, then, that none of you would compete for the recognized business of the other?

A. We did not have any understanding of that kind.

Q. Did you hear Judge Gary make a statement to that effect?

A. I have no recollection of such a statement.

Q. What percentage of the iron and steel trade in the United States was represented at those meetings, so far as you remember?

A. A very large proportion.

Q. Upwards of 90 per cent?

A. Possibly so.

Q. To the best of your information and belief, was it so?

A. I would say so; maybe more.

Q. Did or did not those meetings result in maintaining prices?

A. The effect of them was to maintain prices.

Q. Was there any understanding among you that you were bound to protect one another?

A. None whatever.

Q. Did you hear Judge Gary state that you were bound to protect one another, at that meeting?

A. I have no recollection of his specific statements on the subject.

Q. Did you hear him say that to carry out that purpose your honor was at stake and that the obligation binding on you was even dearer than life itself?

A. I had no impression in my own mind that the necessity was dearer than life.

Q. Did you understand him, or hear him say, that none of you should act or fail to act except with the distinct and clear understanding that his honor was involved?

A. I did not.

Q. You did feel, however, that your honor was involved in the question of whether you would or would not give notice to Judge Gary and these others, before you reduced your prices, did you not?

A. For the reasons I stated a while ago.

Q. That is to say, you felt there was a moral obligation and that you were in honor bound before you reduced those prices to give notice to them; is that correct?

A. I would not put it quite that way.

Q. How would you put it, Mr. Topping?

A. Common business decency; for the reason that we had been co-operating for the protection not only of our own particular interests, but for the protection of our customers at that time as well.

Q. You felt you were in honor bound to give that notice before you reduced your prices?

A. I would hardly express it as strongly as that, "in honor bound." I was perfectly free to do what I pleased, and use my own business judgment, and I did use it.

Q. You said you felt you were morally bound, did you not?

A. In the sense that I did use that term—as a matter of business courtesy.

Q. In what sense did you use it?

A. Business courtesy, pure and simple.

Q. How was that?

A. Business courtesy, pure and simple, because we had been exchanging general information and I thought it proper to give them that information.

Q. You expected, didn't you, before they reduced prices that they would give you like information?

A. For the same reasons that I exercised in my case.

Q. That is to say, it was mutual, was it not? You did notify them, and you expected them to so notify you? You exercised the golden rule, did you not?

A. You might apply it in that way.

Q. Is it not that true? If it is not, state what is correct, please?

A. I have put it as clearly as I can: business courtesy and common decency suggested my course of action, which I followed.

Q. I asked you a little bit more, if you did not, from the association that you had, and the understanding that you had with these gentlemen, expect that they would exercise a like business courtesy and a like common decency towards you before they reduced their prices?

A. I did not always realize that expectation.

Q. I am not asking you what you realized, but I am asking you what you expected from the association and the way that you had formed your ideas of your moral obligation in the matter. Did not you expect the same from the others?

A. From some I did, and others I did not.

Q. How about the Steel Corporation?

A. I expected the same.

Q. Did you expect the same from them?

A. I expected the same courtesy from them.

Q. How about the Lackawanna. Did you expect it from them?

A. I think I would.

Q. How about the Pennsylvania. Would you expect it from them?

A. I would put them on that honor roll.

Q. I will not embarrass you by asking you as to any that you would not put in that class.

A. Those I reached by public notice I did not expect it of, and that is why I published that notice.

Q. So you reached two classes?

A. So they would get the information I wanted to convey and get it quickly.

Q. How?

A. I published it so they would get the information I desired to convey, and could not convey personally, so I utilized the press.

Q. There was one class you had a feeling of reciprocity towards, and you gave them notice?

A. There was one class I had rather more confidence in than the other.

Q. You felt that there would be a reciprocal sense of moral obligation, did you, as to those?

A. There was reciprocity on anything.

Q. I mean on the question of notice before the reduction of prices, you expected the same of them, didn't you?

A. I said as to a few, yes.

Q. A few?

A. And many, not.

Q. And you covered those with a blanket publication, so as to be fair to all of them, even though you might not have confidence in some of them being fair to you. Is that correct?

A. I cannot answer the question in that way.

Q. Answer it in your own way, Mr. Topping. I do not want to dictate your answers.

A. I think I have answered it as clearly as I can. I desired to convey the information and I utilized the best means at my command for conveying it and doing it quickly.

Q. You covered all classes?

A. I did.

Q. You did not go quite as far as Judge Gary in thinking that the obligation or understanding, or whatever it was, was dearer than life?

A. I did not quite agree with him on that subject.

Q. Did you, at that meeting, protest against any of his pronouncements?

A. I certainly did not. It was hardly a proper place to disagree with a man, at a banquet table.

Q. We have heard of some disagreements at a banquet table, haven't we.

A. A feast of reason and a flow of the soul is usually the situation at the Gary dinners.

Q. Upon whose invitation did you go to those dinners?

A. Judge Gary's, usually—I think entirely so.

Q. Do you recall that he admonished you at that dinner that you should not forget the high moral obligation that you owed towards your neighbors?

A. Oh, I think in a general way; yes.

Q. And that it was of the highest importance, at that particular time, that every one of you should have a keen and abiding sense of the personal obligation which he had toward each of the others?

A. I was not impressed quite as seriously as the report that you have would suggest.

Q. Do you mean to say that you did not hear it or were not impressed?

A. I allowed some discount.

Q. You took it *cum grano salis*, did you?

MR. LINDABURY: Now, wait a minute. Let us get that discount.

A. I applied the usual discount to post prandial efforts and allowed for that in my conclusion.

By MR. DICKINSON:

Q. Do you recall that you were admonished to make no mistake of running the risk of trespassing within the domain of the rights of your neighbors who had given you their confidence and trust?

A. Possibly I felt that I did not need it.

Q. I am not asking you what you felt. I am asking you if you heard him admonish you in that manner?

A. I do not recollect, Judge Dickinson, the speeches in

detail. The general effect of the speeches, of course, I have in my mind, but I did not attach a great deal of importance to the general talk about the banquet table. Good fellowship was the principal feature we were interested in, and in having a good time.

Q. Ninety per cent. of you came from all over the country, did you, for good fellowship?

A. Why, certainly.

Q. How long had you been indulging in this kind of good-fellowship? For how many years?

A. Not as long as we should have been.

Q. I am asking you how long?

A. It was a Gary invention, pure and simple.

Q. I am asking you, Mr. Topping, if that invention did not follow hard upon the breaking up of pools and combinations which had before that controlled prices?

A. I was never in a pool, so I do not know.

Q. What do you mean by saying that you were never in one?

A. I never participated in one.

Q. You mean personally?

A. Personally. I would have done so had I had the opportunity.

Q. Who barred you?

A. Conditions were not favorable to my own products. That is the only answer I can give you.

Q. What did you understand a pool to be? You said you would have participated if you had had a chance. In what sense are you speaking of a pool?

A. Any pool that would have regulated the selling price of the products I was interested in, that would have secured better profits for the products I sold, would have been a very desirable thing to have entered.

Q. That is to say, if producers making like products entered into an agreement by which they fixed prices?

A. To maintain a profitable selling price, and to have a penalty attached, a penalty for excess production and such features; what is commonly known as a pool arrangement.

Q. And you would have availed yourself of the opportunity to go into such a pool if you had had the chance?

A. Yes, sir.

Q. Is that in line with the moral sense that actuated you to notify Judge Gary that you were going to reduce your prices?

A. Pools were thought to be a good thing before the Sherman Law was put into effect and prohibited such arrangements; they were thought to be a desirable thing.

Q. They would be desirable now, if they were lawful, would they not?

A. We need them to maintain a reasonable profit in the business; yes.

Q. Coming back to the National Steel at the time of its formation, state what makers of crude steel in Ohio and Pennsylvania were left outside of that organization at the time of its formation.

A. The Ashland Steel Company, of Ironton, Ohio.

Q. The Ashland Steel Company?

A. Yes, of Ironton, Ohio, or Ashland, Kentucky. The two towns are adjoining.

Q. Go on.

A. The Jones & Laughlin Steel Company; the Wheeling Steel & Iron Company; Otis Steel Company. There may have been others.

Q. Is that all you can name?

A. There may have been others.

Q. I say, is that all you can recall?

A. Yes. They are still independent, I think. I think all of them are still independent.

Q. What was the capacity of the Ashland Steel Company, if you know?

A. They have a Bessemer plant. I do not remember. I should say, from the size of their converters, possibly 300,000 tons. That might be a fair estimate.

Q. 300,000 tons per annum?

A. 300,000 tons per annum.

Q. What was the capacity of the Jones & Laughlin Company?

A. What it was at that time I do not remember. Possibly half a million. It is something over a million now.

Q. I am speaking about that time. The Wheeling Steel & Iron Company?

A. I should say about 300,000 tons.

Q. And the Otis Steel Company?

A. Somewhere near the same capacity, I would say. Theirs is an open hearth plant.

Q. What was the capacity of the combined concerns at that time, at the time they went into the National Steel Company?

A. I do not recollect.

Q. Well, give it approximately, as near as you can give it.

A. I would rather not make an estimate, because it is rather a complicated proposition, and I might be widely wrong in my estimate. It took in a good many plants and properties, the conditions of which I do not remember exactly.

Q. State whether or not their combined products were larger than the combined products of these you have named?

A. Yes; decidedly so.

Q. Much larger?

A. Considerably larger.

Q. I will ask you whether or not in any respects what you have spoken of as the Moore Group of properties were in competition either with the Federal or the Carnegie Company at the time the Corporation was formed, whether they were in competition in interstate commerce.

A. In what products?

Q. I am just asking you for information.

A. The general question?

Q. Any products. I will ask you to name the products, if there are any.

A. I think I answered that yesterday, "to a limited extent only," and it comprises billets, crude material more particularly. I do not think the National Steel group or the Moore group made anything of a competitive character with the Carnegie Company, so far as I recollect, except crude material.

Q. How about tin bars?

A. That is included in crude material. That is to a limited extent only, for the reason that the group of companies referred to, the Moore group of companies, was supposed to

consume the entire output of the National Steel Company, and as a matter of fact did, and at times bought steel outside.

Q. At other times, I understood you to say, the National Steel Company did sell in competition.

A. When finishing business was down, they may have sold at times semi finished material to outsiders.

Q. And in competition with the Federal and Carnegie?

A. To that limited extent.

Q. When did you first hear that the United States Steel Corporation was about to purchase the stock of the Tennessee Coal, Iron & Railroad Company?

A. (Referring to memorandum.) I can tell you almost exactly. I sent the notice on November 5, 1907, notifying our directors of the meeting at which that subject was to be discussed. So it was prior to November 5; it was possibly November 3.

Q. Do you remember what day of the week it was?

A. No, I do not. You can figure that out.

Q. Is that the day you got your first notice of the contemplated purchase?

A. Yes.

Q. State whether or not you understood that Mr. Schley was in such a condition that he had to sell that stock.

A. It was not put that way to me.

Q. What way was it put to you?

A. I do not know that I can recollect the specific language he used, but the information to me carried this thought: That it was necessary for him to sell it. I understood that in the sense that it was expedient for him to sell it, in other words.

Q. You mean a business necessity?

A. I understood it so.

Q. What price did you or your associates pay for the first stock you bought, when you acquired the control?

MR. LINDABURY: Objected to as irrelevant and immaterial.

A. I do not know what the average price was. It was acquired at different prices, from 80 up.

By Mr. Dickinson:

Q. I mean when the syndicate purchased—

A. The syndicate bought the stock at different prices during a period of time, in their effort to secure control.

Q. From 80 up to what?

A. Up to the point of control. It was not all bought at one time. It was gradually acquired in the market.

Q. I will ask you this: Have you anything to refresh your memory as to about what you paid for your stock?

A. I know what I paid for my stock.

Q. What did you pay for it?

A. My stock cost me 110.

Q. The stock you sold to the Steel Corporation cost you 110?

A. It did.

Q. Did all of it cost you 110? Did you not subscribe to some that you got at par?

A. I am talking about the original purchase.

Q. That is what I thought, but I did not want to confuse the matter. The stock that you had in the original syndicate cost 110?

A. That is what I meant by my answer.

Q. I understood it that way. Then subsequently you subscribed to stock at par?

A. I did.

Q. When the question of selling the stock to the Corporation came up, what was the first price you understood to be offered, if there was any offer?

A. I do not know as to that. That was a matter of negotiation that Mr. Schley conducted. I was not interested until the final price was put up to me as to whether I would sell or not.

Q. You do not know anything about the various prices that were considered and talked of before that?

A. I do not.

Q. What in money, taking the value of the bonds at that time, did you get for the stock?

A. I got 119 for my stock and took the bonds at par.

Q. How did that figure out?

A. It did not figure out at all, because I kept the bonds.

Q. That was what the others got, was it?

A. The bonds at that time were worth about 84, but I did not sell my bonds.

Q. That is what all got, they got the same?

A. Yes, sir; that was the price paid all stockholders.

Q. You were asked whether or not any pressure was brought to bear to bring about this sale, and you said you did not think so. Have you any information one way or the other on that subject?

A. I was answering as to the pressure brought to bear on me. I knew of none.

Q. And you were speaking of the pressure brought to bear on you?

A. Yes.

Q. And you did not undertake to say that you knew that no pressure was brought to bear on others?

A. I do not know anything about what others did, of course; but I think I would have known it had there been any.

Q. There are some things you did not know, are there not? That is to say, if there were any negotiations about prices before the final price offered to you, you did not know about that?

A. I think I would know what would go on in my own circle of associates, and I heard nothing of the kind, and of my own knowledge I know that no pressure was brought to bear on me.

Q. No; I am asking about the question of prices, if there were any prices talked of to start with other than the price at which the trade was made. If there was such a thing, you do not know it?

A. The price came up as a final offer, as to the final offer made Mr. Schley, and that same offer was tendered us, and that is the only consideration I gave the matter.

Q. You do not know about any negotiations at which other prices were considered?

A. I do not.

Q. There may have been a good many things that happened that you did not know anything about, might there not?

A. There might have been.

Q. Were you influenced in any way to sell by the financial

condition of the Tennessee Coal, Iron & Railroad Company at that time?

A. I was not.

Q. Did you sell on account of the unpaid subscription?

A. I did not.

Q. You were questioned, Mr. Topping, in regard to the cost of making iron north and south, and stated that in Chicago, at one of the works of the Corporation, basic and foundry iron could be made as cheaply as they could in Birmingham?

A. I did not say that.

Q. Did you not? Well, I misunderstood you. Please state what you did say in that connection, because I want to ask you about it.

A. I said that I would not be surprised to know that basic iron might be made by the corporation at Chicago as cheaply as it could be made at Birmingham at that time. That is what I said.

Q. Was that or not on account of the superior character of the works there compared to those in Birmingham?

A. Partly due to that and partly due to the fact that at that point transportation costs are light, and it is a cheap point of manufacture.

Q. Suppose the efficiency of the works were exactly the same, one located in the Birmingham District and one there in Chicago, could that point produce as cheaply as the Birmingham District could?

A. I do not think they could quite.

Q. Do you know any other point in the United States that would be as favorably situated as Chicago for that character of competition?

A. Lorain, Ohio, might be.

Q. Any other point?

A. Possibly Cleveland. Any Lake point.

Q. You said the Steel Corporation sold no pig iron?

A. I did.

Q. Did it sell any basic steel?

A. They did; a great deal of it.

Q. Did the southern works sell any basic steel in the northern market?

A. They did not.

Q. They sold pig iron, however?

A. Yes, sir; foundry iron.

Q. For what classes of work was this foundry iron sold?

A. Foundries.

Q. And what was it for?

A. Gray iron castings, stoves, and various products of that character; cast iron pipe, and so forth.

Q. Did the corporation make any cast iron pipe?

A. It did not.

Q. Or did any of its subsidiaries?

A. They did not.

Q. Is there any market in the north for basic steel made in the South?

A. They cannot transport it north.

Q. On account of the freight rates?

A. On account of the freight rates; in competition with northern steel.

Q. Can the northern works transport and compete in the South with basic steel successfully?

A. In many lines they do.

Q. In what lines?

A. Structural. We sell more or less steel to the South, all over the South, at the present time.

Q. That is structural material, is it?

A. Bars and various products made, railroad spikes, bolts, and nuts, plates; a little of everything.

Q. You were asked about the making of rails when you parted with the property. The machinery that you had for that purpose was not up to date, was it?

A. In very poor condition physically, and somewhat obsolete in type.

Q. Were you not preparing to put in a modern type?

A. We were.

Q. Did you not expect that would reduce the cost of production?

A. Naturally so. That is why we were selling rails at a loss, to hold the trade while the new mill was being built. That was the sole reason.

Q. You were asked about the approximate production

of sheet steel, and you stated that you thought the corporation produced about 50 per cent?

A. I did.

Q. And you were then asked whether or not it was a little less, and if the independents did not produce 53 per cent. You stated that three per cent would not make any material difference. What did you mean by that, Mr. Topping?

A. I meant that talking from memory, considering the many things I have to remember, the mass of figures that naturally go through my mind, that three per cent variation from the actual figures was not a bad guess.

MR. DICKINSON: I am through, Mr. Lindabury.

RE-CROSS EXAMINATION

By MR. LINDABURY:

Q. You were asked about the concerns making steel at the time the National Steel Company was formed, which did not go into or were not taken over by that corporation?

A. Yes, sir.

Q. And you named some?

A. I named some and stated there were others that did not occur to me at the moment.

Q. You did not name the Cambria?

A. No, sir.

Q. Was that in existence then?

A. Yes.

Q. A large concern?

A. Yes; one of the oldest.

Q. And it is still in operation?

A. Yes.

Q. And still independent of the National or any of its subsidiaries?

A. It is.

Q. The Pennsylvania?

A. I did not name the eastern plants, Mr. Lindabury, because I understood in the immediate neighborhood that would naturally compete with the National Steel Company.

MR. DICKINSON: My question was limited in territory, Mr. Lindabury, if you recall. It did not call for all the United States.

MR. LINDABURY: I did not understand that.

THE WITNESS: I did not cover the United States, because of his question.

MR. DICKINSON: My question was not broad enough.

MR. LINDABURY: Now we want the whole country, because this covers the whole country. This is not a local affair.

MR. DICKINSON: All right. But I want you to understand I limited the witness.

THE WITNESS: That is why I did not put in the eastern mills.

By MR. LINDABURY:

Q. Where is the Cambria Company?

A. Johnstown, Pennsylvania.

Q. You forgot that, I suppose?

A. I did.

Q. Because that is in the territory.

A. That would be naturally tributary to that territory.

Q. It is only a limited territory that is tributary to these different companies?

A. It is, on account of the sheet bars and billets, which are about the only products that the National was in competition with the Carnegie on at the time, and the consumption of those products is all in the greater Pittsburg district. That is why I restricted my answer.

Q. I want to know what prominent concerns there were making steel in the United States that were not taken into the National Steel Company, and you have named the Cambria. The Pennsylvania?

A. The Pennsylvania.

Q. Where is that?

A. At Steelton.

Q. An important concern?

A. Very.

Q. Still outside of any combination?

A. It is. Colorado Fuel & Iron Company.

Q. Where is that?

A. Pueblo, Colorado.

Q. Is that a prosperous concern?

A. Fairly so, I think.

Q. And large, is it?

A. Large, yes.

Q. It is making a good deal of steel, is it?

A. I think so.

Q. Maryland Steel?

A. Yes.

Q. Is that a large concern?

A. It is.

Q. Where is that located?

A. Sparrow's Point.

Q. Was it in existence when the National was formed?

A. It was.

Q. Has it remained independent ever since?

A. It has.

Q. What about the Lackawanna Steel?

A. At that time I think the Lackawanna Steel was at Scranton. They were rather a smaller concern at that time. They have since removed to Buffalo, and it is a newer creation at that point.

Q. How large is it now?

A. A million tons per annum, approximately.

Q. One of the large ones?

A. One of the largest independents.

Q. One of the most prosperous?

A. I would hardly characterize it as one of the most prosperous.

Q. Making a large amount of steel?

A. It is making a lot of steel.

Q. How much has it increased its capacity since the National was formed, roughly?

A. I should say doubled it.

Q. How about the Bethlehem, was that in existence then?

A. Yes; the Bethlehem was in existence at that time.

Q. Where is that, at Bethlehem, Pennsylvania?

A. I do not think, at that time, as I recall Bethlehem's product then, it would be termed a competitor, because they were engaged almost exclusively in the early days on armor

plate, guns and projectiles. They had a steel plant, but not a commercial steel plant. Since then they have built a commercial steel plant. I think I am right in that recollection.

Q. And they are manufacturing on a large scale?

A. They are.

Q. One of the largest?

A. One of them.

Q. Has their capacity increased in recent years?

A. Practically doubled.

Q. In what time has it doubled?

A. In the last six or eight years.

Q. From what it was in the preceding six or eight years?

A. In fact they have all doubled their capacity, substantially.

Q. What about the Inland Steel Company?

A. That is a newer creation.

Q. That sprang up when?

A. Within the last six or eight years.

Q. Is it doing considerable business?

A. Yes.

Q. And making a good deal of steel?

A. There are other steel companies in addition. The La Belle, quite a large works. Youngstown Sheet & Tube; Inland Steel.

Q. Go on. You know them better than I do.

A. A large number: it takes a large number for a large country.

Q. And many have come into existence, I take it, since the National was formed?

A. A great many have.

Q. Since the Steel Corporation was formed?

A. Some.

Q. That would be true too?

A. Yes.

Q. And have most of them increased their capacity since the Steel Corporation was formed?

A. I think they all have, as far as I remember.

Q. And would you say the majority of them have doubled their capacity since the Steel Corporation was formed?

A. I think that would be a fair statement of the fact, yes, sir.

Q. You were asked about the railroad business of the Steel Corporation, and you stated yesterday, and again this morning, that you shipped your ores from the mines to the Lake either over the Hill road, or over one of the two roads of the Steel Corporation?

A. I did.

Q. Can you tell me whether or not in the transportation of ore the Steel Corporation has discriminated against independents in the matter of service, so far as you know?

A. So far as I have any knowledge, I would say no.

Q. Has the service ever been other than fair and equal as between the shippers without regard to the Corporation's ore?

A. I think not.

Q. And how is the service compared with that of the Hill road?

A. That I cannot answer. I have no complaints to make in comparison.

Q. And have the rates been the same?

A. Always.

Q. And over what routes did you get the ore after it was delivered at the lower Lake ports? That is, did you have to use the corporation's roads for transshipment or transportation from the lower Lake parts to your works?

A. You mean from Cleveland and Connaut?

Q. Yes.

A. No; they do not serve our community. The Lake Shore and Baltimore & Ohio principally, and Pennsylvania.

Q The Lake Shore, Baltimore & Ohio and Pennsylvania?

A. That is, from Lake Erie to the points of consumption, our works.

MR. LINDABURY: That is all.

MR. DICKINSON: I am obliged to you, Mr. Topping.

JOHN STERLING DEAN,

called as a witness in behalf of the United States, being first duly sworn, testified as follows:

DIRECT EXAMINATION,

By Mr. Dickinson:

Q. Mr. Dean, where do you live?

A. At Phoenixville, Pennsylvania.

Q. What is your age, Mr. Dean?

A. Fifty-three.

Q. How long have you lived at Phoenixville?

A. About thirty-two years.

Q. In what business are you associated there?

A. Connected with the Phoenix Bridge Company.

Q. That company is located there?

A. Located at Phoenixville yes, sir.

Q. How long did that company and companies to which it has become a successor in property been in operation? In other words, how long have those works been in operation?

A. There have been steel operations in Phoenixville for over a hundred years.

Q. What is the capacity of that company now?

A. As a fabricating Company, you mean?

Q. Yes.

A. About 75,000 tons.

Q. Comparatively is that a large or a small concern?

A. It is a fair sized concern.

Q. Mr. Dean, please state in some detail, or such detail as is necessary, the character of products made by that company and sold in interstate commerce in competition with the American Bridge Company or its constituent companies?

A. You refer to the Phoenix Bridge Company?

Q. Yes.

A. Their product is the heaviest class of railroad bridges and highway bridges, the heaviest class of highway bridges.

Q. Does it make any structural work?

A. Not directly, the Phoenix Bridge Company.

Q. How is that?

A. The Phoenix Bridge Company directly does not.

Q. Are you connected with any other company?

A. The Phoenix Iron Company.

Q. Is that a subsidiary, controlled by the Phoenix Company?

A. No; the Phoenix Iron Company controls the Phoenix Bridge Company.

Q. State what the Phoenix Iron Company makes and sells in interstate commerce in competition with the American Bridge Company, or any of its subsidiaries.

A. Structural material, buildings, floors, roof trusses, and so forth.

Q. Such as is used in these large buildings that are being put up now under modern plans?

A. Yes sir.

Q. I shall call over to you the names of certain companies and ask you in regard to their products, and ask you who they competed with in interstate commerce, either in bridge work or in structural material.

MR. LINDABURY: Is this from the bill?

MR. DICKINSON: Yes, I think this is in the order of which it occurs in the bill.

By MR. DICKINSON:

Q. Do you know the A. & P. Roberts Company?

A. Yes.

Q. That is commonly called the Pencoyd Iron Works of Philadelphia, is it not?

A. It is commonly called the Pencoyd.

Q. What did that company make at the time it was taken over by the American Bridge Company?

A. Bridges and buildings.

Q. Bridges and such structural work as goes into buildings?

A. Yes, sir.

Q. The Keystone Bridge Works, formerly of the Carnegie Company of Pittsburg; what did they make?

A. The same.

Q. State whether at that time those companies competed with either of your companies that you have mentioned?

A. Yes, they competed with us.

Q. In both classes of products?

A. In both classes of products.

Q. State whether or not they competed with each other in interstate commerce?

A. They did.

Q. Outside of the State of Pennsylvania?

A. Yes.

Q. They made and sold their products in competition with each other outside of Pennsylvania?

A. Yes.

Q. Where, generally?

A. Throughout the United States.

Q. What can you say about the products of the Berlin Iron Bridge Company, of East Berlin, Connecticut?

A. Their products I think were of a smaller character, but similar to those.

Q. Of the same type?

A. Of the same type.

Q. Were they or not competing for the same business as far as they were able, from the point of production?

A. Not in the large works.

Q. But they were competing in smaller works?

A. They competed in smaller works.

Q. Did they make a structural material or only bridges?

A. I think they made structural material and small highway bridges.

Q. What did Post & McCord, of Brooklyn, make?

A. I think they were principally competitors in structural work, buildings, roof trusses and so on.

Q. Were they competitors with your company in structural work?

A. Yes.

Q. And with these other companies you have described as having made structural work?

A. Yes, sir; in a limited territory.

Q. But outside of New York?

A. Yes.

Q. What did the Elmira Bridge Company, of Elmira, New York, make?

A. Bridges and buildings.

Q. Bridges and structural material for buildings?

A. Yes.

Q. In what territory did they compete?

A. I think they competed throughout a number of States.

Q. Did they compete with any of the other companies I have mentioned making structural material?

A. Yes, sir.

Q. Now, take the Union Bridge Company, of Athens, Pa. What did it make?

A. Its principal product was bridges, and they competed throughout the United States with others.

Q. With the other bridge companies that made bridges?

A. Yes, sir.

Q. What did the Edge Moor Bridge Works make?

A. They made bridges principally, and buildings, and they competed throughout the United States.

Q. Was that a large or small concern?

A. A very fair sized concern.

Q. Did it compete with these other companies that have been mentioned?

A. It did.

Q. In interstate commerce and outside of the State of Delaware?

A. Yes.

Q. Take the Lassig Bridge & Iron Works, of Chicago, Illinois. What did they make?

A. That is the same; they built bridges and buildings and competed throughout the United States.

Q. In the way you have described as to the others?

A. Yes.

Q. Was that a large or small concern?

A. A good sized concern.

Q. Take the Shiffler Bridge Company of Pittsburgh, Pa.

A. They were a smaller concern, but they had similar products.

Q. And they competed similarly with the others?

A. Yes.

Q. Now take the Detroit Bridge & Iron Works of Detroit, Michigan?

A. Bridges principally, and buildings. They competed with the others and with us.

Q. They competed generally in interstate commerce?

A. Yes, sir.

Q. And outside of the State of Michigan?

A. Yes.

Q. Now take the Richester Bridge & Iron Works of Rochester, New York.

A. They were hardly competitors; they built bridges, though, smaller bridges and buildings.

Q. Small bridges?

A. Yes.

Q. State whether or not they constructed them outside of New York.

A. I think so.

Q. And to that extent they competed in that character of work?

A. Yes.

Q. Take the Groton Bridge & Manufacturing Company, of Groton, New York.

A. They were rather a local concern in highway bridges and small work.

Q. Take the Youngstown Bridge Company, of Youngstown, Ohio.

A. Yes, they competed.

Q. Was that a large or small concern.

A. Fair sized.

Q. What did they make?

A. Bridges, I think, principally.

Q. Principally bridges?

A. Probably buildings and structural work.

Q. Did they make railway bridges?

A. They made railway bridges.

Q. Did they make highway bridges?

A. Yes; highway bridges.

Q. They made bridges to go over rivers?

A. Yes.

Q. Were they competitors or not with these other companies?

A. I think they were.

Q. Outside of Ohio?

A. Yes, sir.

Q. Take the J. G. Wagner Company, of Milwaukee. What did they make?

A. They made bridges and buildings. They were competitors, general competitors, I think.

Q. Competitors of these other companies?

A. I think so, in a limited territory.

Q. Outside of the State of Wisconsin?

A. I think they competed outside of the State of Wisconsin; yes.

Q. Take the Wrought Iron Bridge Company, of Canton, I believe it is, Ohio.

A. Canton, Ohio.

Q. What did they make?

A. Their principal product was, I think, highway bridges, and they competed throughout several States.

Q. Outside of the State of Ohio?

A. Yes, sir.

Q. Now I will take the New Columbus Bridge Company.

A. I do not know them.

Q. Gillette-Herzog Manufacturing Company, of Minneapolis. What did they make?

A. I am not familiar with them.

Q. Do you know the Lafayette Bridge Company, of Lafayette, Indiana?

A. I think their product was principally highway bridges.

Q. Did they compete with these other companies?

A. I think so.

Q. Outside of Indiana?

A. I think so.

Q. That is the best of your knowledge, that they did?

A. They were not competitors of ours.

Q. But I am speaking of the other companies who went into the American Bridge Company who made that class of product?

A. I think so.

Q. Do you know the Pittsburg Bridge Company, of Pittsburg, Pennsylvania?

A. Yes.

Q. What do they make?

A. They make bridges and buildings.

Q. Are they a large or small concern?

A. Rather small at that time.

Q. Did they or not compete in interstate commerce with other companies in Pennsylvania?

A. I think they did.

Q. Did they compete with your company?

A. Not to any extent.

Q. What about the Schultz Bridge & Iron Company, of Pittsburg, Pennsylvania?

A. A similar concern, but a little larger; and they did compete.

Q. They did compete with your company?

A. Occasionally?

Q. And with these other companies outside of Pennsylvania?

A. Yes.

Q. Do you know the Buffalo Bridge & Iron Works of Buffalo, New York?

A. I am not familiar with them.

Q. Take the Koken Iron Works, of St. Louis, Missouri.

A. I am not familiar with them.

Q. The Hilton Bridge Construction Company of Albany, New York?

A. What company was that?

Q. The Hilton Bridge Construction Company.

A. They were entirely makers of highway bridges. I am not familiar with them.

Q. Do you know the Horseheads Bridge Company of Horseheads, New York?

A. They were highway bridge makers.

Q. Was that a large or small concern?

A. Small.

Q. Were they or not competitors in interstate commerce?

A. I should say so, with some of those in that list.

MR. LINDABURY: You mean competitors with everybody?

MR. DICKINSON: Yes.

By MR. DICKINSON:

Q. Take the American Bridge Works, of Chicago, Illinois.

A. Yes, sir.

Q. What did they make?

A. They made bridges and buildings, and they were a good sized concern.

Q. Were they or not a competitor?

A. They were a competitor with us and others in the west.

Q. And outside of the State of Illinois?

A. Yes.

Q. Do you know about the New Jersey Steel & Iron Company of Trenton, New Jersey?

A. Yes, sir; they were general competitors.

Q. Were they a large or small concern?

A. Fair sized.

Q. You say "general competitors." You mean in interstate business?

A. I think so.

Q. Did they compete with your company?

A. Yes, occasionally.

Q. And outside of New Jersey?

A. Yes.

Q. But you were competing with these other companies, were you not, in the business you were in?

A. Yes.

Q. And you met both of them as competitors?

A. Yes.

Q. Take the Toledo Bridge Company, of Toledo, Ohio.

A. They were makers of bridges, and I think at that time principally highway bridges. They were not competitors of ours.

Q. Do you know the Nelson & Buchanan Company of Chambersburg, Pennsylvania?

A. I do not know anything about them.

Q. State which of the companies that went into the American Bridge Company made and sold plain mill material in interstate commerce.

A. Well, the Pencoyd——

Q. Were you asked to look up that information?
A. I was.
Q. Have you looked it up?
A. I have.
Q. Are you prepared to answer it?
A. To the best of my ability.
Q. I see you have a memorandum there?
A. Yes, sir.
Q. Can you refresh your memory and speak from memory after looking at that?
A. Yes.
Q. Then please answer the question, will you?

MR. LINDABURY: Let me ask a question about that.

By MR. LINDABURY:

Q. Is that a memorandum made at the time of the transactions you are about to testify to, or was it made recently?
A. Recently made. I mean I have looked up the data.
Q. For the purpose of testifying here?
A. Yes, sir.
Q. At whose suggestion did you make that memorandum?
A. I was asked by counsel to look up these facts.
Q. When?
A. Yesterday, and a month ago.
Q. You have done it?
A. I have done it.
Q. And you have made a memorandum?
A. Yes, sir.
Q. Do you want to refresh your recollection by that?
A. Yes, sir.

MR. LINDABURY: That is not within the rules. We object to that.

By MR. DICKINSON:

Q. You need not look at your memorandum.
A. Thank you.
Q. I will ask you whether or not the Pencoyd Iron Works owned by the A. & P. Roberts Company made plain mill material.

MR. LINDABURY: I object to that as leading.

MR. DICKINSON: "Whether or not." I did not say whether they did or not.

MR. LINDABURY: I object to that as leading, and there seems to be no excuse for that in the case such as this witness describes.

MR. DICKINSON: I will withdraw that question.

By MR. DICKINSON:

Q. Do you know what class of products the Pencoyd Iron Works made?

MR. LINDABURY: That is better.

A. I do.

By MR. DICKINSON:

Q. What did they make?

A. The Pencoyd Iron Works made billets and structural material and mill products, besides their bridge and building department.

Q. What is plain mill material? What does that mean?

A. It means building plates and angles and bars and channels and beams.

Q. What is that work used for?

A. That is used in the fabricating jobs, to build buildings and bridges and so forth.

Q. To build bridges?

A. Yes.

Q. And buildings?

A. Yes.

MR. LINDABURY: Will you not stop a minute? I am interested in understanding that as well as you. The understanding I have had is structural shapes—is that another name for it?

THE WITNESS: Some plain material would be outside of structural shapes, like small plates, you know.

MR. LINDABURY: I am trying to get the information. I did not understand it fully myself.

MR. DICKINSON: I will pursue the inquiry.

By Mr. Dickinson:

Q. State fully what you understand by plain mill material?

A. I understand plain mill material is material that comes from a rolling mill before it has been fabricated in any way by a shop. That may be plates, angles, beams and channels, or any other mill product.

Q. Was or was not plain mill material used by those concerns that constructed bridges and constructed buildings wherein steel structure is used?

A. Yes, it was.

Q. The Keystone Bridge Works; do you know what they made? They were formerly of the Carnegie Company.

A. As part of the Carnegie Steel Company, they made, in addition to bridges and buildings, all kinds of plain material. Their mills rolled all kinds of plain material used by bridge works.

Q. The kind of material you have been describing?

A. Yes.

Q. Bridge and structural work as well as work for houses?

A. Yes.

Q. The Cleveland Rolling Mill? Where was that situated?

A. I am not familiar with that. I imagine it is in Cleveland, but I am not familiar with it.

Q. Nor with their products?

A. No.

Q. What concerns were there, if any, making the same classes of plain mill material that you have described, that were not taken into the American Bridge Company on its formation? You need not look at your memorandum.

A. At that time there was the Jones and Laughlin; the Phoenix Iron Company; I think the Pennsylvania Steel Company made a small quantity; the Cambria, possibly; and the Pottsville Iron Company.

Q. What proportion of all the plain mill work made at the time of the formation of the American Bridge Company was made by concerns that went into that company?

A. I should say certainly from 60 to 75 per cent.

Q. What per cent did the American Bridge Company control at a time just after its formation, of the class of work which the Phoenix Company sold?

A. I should think very close to 75 per cent.

Q. Did the companies which went into the American Bridge Company competing with each other, make that class of work or not?

A. They did, before the combination, yes.

Q. What class of work did those companies that went into the American Bridge Company make?

A. I think their largest tonnage was heavy railroad work and buildings.

Q. Bridge work? Did they make bridge work?

A. I mean heavy railroad bridge work.

MR. LINDABURY: Heavy railroad bridge work and what else?

THE WITNESS: Building and structural work.

By MR. DICKINSON:

Q. Is that the kind of work generally that those two companies you represent did?

A. Yes.

Q. Take works such as railroad bridges, large bridges over rivers, large highway bridges and heavy buildings. What proportion of that work is now controlled by the American Bridge Company?

A. Now?

Q. Yes, at this time.

A. I think at least 50 per cent.

Q. Are you acquainted with statistics that are given out from time to time of the products or the amount of products of that character of work throughout the United States?

A. Yes. It is my business to keep posted in such matters.

Q. State what kinds of works or shops are included in that class of statistics. For instance, state whether or not it merely covers those that are interstate commerce, or whether it goes further than that, and, if so, to what extent?

A. In arriving at the total tonnage of fabricated work in

the United States, not only the product of the larger companies considered, about which you have been asking questions, but also the very numerous small shops that would not be considered as entering into interstate commerce, I should say, but are local in their business relations.

Q. Shops and concerns that are entirely local in their character?

A. Yes; but that have a very large tonnage in the aggregate.

Q. It goes in to swell the general figure?

A. It is a very important factor in the general figure.

Q. To that extent, has that any relation to the amount done in interstate commerce?

A. I should say it does not affect it seriously.

Q. What class of work and what class of shops are included in what you have said?

A. Every kind of a shop. A shop that punches one hole in a beam would be considered a fabricating shop, in that sense.

Q. And a smith shop?

A. A smith shop and any shop with a small tool.

Q. What proportion of large bridge and structural contract work of the United States for the twelve months next preceding this time has the American Bridge Company contracted for, and what proportion have the so-called independents contracted for?

MR. LINDABURY: If this witness throws overboard all the statistics upon what is he going to base his information?

MR. DICKINSON: You can find that out when you take the witness for examination.

MR. LINDABURY: I would be entitled to ask him now as to the sources of his information.

MR. DICKINSON: I think not. I think when I turn the witness over to you that is as soon as you can properly begin examining him.

MR. LINDABURY: All right, if you want to go on that way.

MR. DICKINSON: What do you want to do? I will concede most anything to keep peace.

MR. LINDABURY: I want information based on something reliable and not on guess work. If he is in some bridge build-

ers' association and gets his information that way, then I would not object.

By Mr. Dickinson:

Q. Are you a member of any bridge builders' association?

A. I belong to the society called the Bridge Builders' Society.

Mr. Lindabury: I withdraw my objection, then.

By Mr. Dickinson:

Q. Will you answer the question?

A. What is the question?

(The question was repeated by the stenographer, as follows:)

"Q. What proportion of large bridge and structural contract work of the United States for the twelve months next preceding this time has the American Bridge Company contracted for, and what proportion have the so-called independents contracted for?"

Mr. Lindabury: Since May 16, 1911.

A. To the best of my belief and knowledge—.

Mr. Lindabury: I object to his belief.

The Witness: You do?

Mr. Lindabury: If you have figures, I do not care; but I do not want mere belief.

The Witness: The American Bridge Company—

Mr. Lindabury: Is this a matter of belief?

Mr. Dickinson: I will show the foundation of his belief. Just answer the question, please.

The Witness: The American Bridge Company has taken practically its capacity in the last twelve months, while the principal competitors outside have taken from 40 to 65 per cent.

By Mr. Dickinson:

Q. Of their capacity?

A. The American Bridge Company has probably ten months' work ahead of them, so far as their capacity is concerned. Their principal competitors have about three months'.

Q. What is the position now of the American Bridge Company, as to its ability, through its connection with other subsidiaries of the United States Steel Corporation, to reach the result that you have described, and what are its advantages or disadvantages, if any, over its independent competitors?

A. Is it simply my views that you want?

Mr. Lindabury: No; your speculation.

By Mr. Dickinson:

Q. Based upon the knowledge you have acquired from the competition of the American Bridge Company, meeting them in competition, and your knowledge of the business and of its workings.

Mr. Lindabury: I object to that as calling for opinion and speculation and as irrelevant, incompetent and immaterial.

A. From my knowledge of the cost of fabrication, and from my knowledge of the cost of erection, I feel certain, in connection with the competition we have been connected with, that the American Bridge Company has some advantage by reason of its connection with the Steel Corporation.

By Mr. Dickinson:

Q. In a dull season in the bridge work in the United States, what is its power as contrasted with that of the independents, to control and take the business?

Mr. Lindabury: I object to that as irrelevant and incompetent and calling for a judgment on the case.

Mr. Dickinson: I think I will make it relevant before I get through. Answer the question.

Mr. Lindabury: What is this question asked for?

MR. DICKINSON: If you want me to explain what I am going to try to prove, of course I am perfectly willing to do it; but I do not think it is proper for me to make an announcement of that sort.

MR. LINDABURY: I object to this question and give notice that at the next session of the United States Court at Philadelphia I will appear and move to strike it out.

MR. DICKINSON: Very well.

MR. LINDABURY: If we are to have questions of this kind we had better have their propriety passed upon.

MR. DICKINSON: I do not object to your motion, and maybe by that time there will be some other things of that kind.

MR. LINDABURY: Please accept the notice.

MR. DICKINSON: I will.

(The stenographer repeated the pending question as follows:)

"Q. In a dull season in the bridge work in the United States, what is its power as contrasted with that of the independents, to control and take the business?"

A. I think its power is simply limited by its capacity to take business:

By MR. DICKINSON:

Q. From whom do you buy the material which you work up into shape and use in your contracts?

A. The Phœnix Iron Company furnish about 60 per cent of our mill material, and the balance is bought outside, at other mills.

Q. Has your company ore properties?

A. I think to a limited extent they have, although I am not posted about that.

Q. Has it any railroad transportation that it controls?

A. No.

Q. From what sources, if you know, does the American Bridge Company buy the material that it uses in the contracts that it bids upon in competition with you and other independents?

A. I can only assume that it buys it from the Carnegie Steel Company and the Pencoyd Iron Works.

(Thereupon, at 12:30 o'clock p. m., a recess was taken until 2 o'clock p. m.)

AFTER RECESS.

2 o'clock p. m.

At the expiration of the recess the hearing was resumed.

JOHN STERLING DEAN,

the witness under examination when the recess was taken, resumed the stand for further examination.

MR. DICKINSON: You may take the witness.

CROSS-EXAMINATION,

By MR. LINDABURY:

Q. Mr. Dean, how long have you been with the Phoenix Company?

A. About 33 years.

Q. And what is your personal share in the work?

A. Nothing. I have no personal——Do you mean——

Q. In the Phoenix Company.

A. Do you mean any financial interest in the company?

Q. I mean are you a practical iron man?

A. I think so; I call myself a practical iron man.

Q. A list was read to you this morning of the concerns that went into the American Bridge Company. You remember that, of course?

A. I do.

Q. How many in number, about?

A. About 25 or 30, I should say.

Q. Do you know how many concerns were left out of it engaged in the bridge-building industry?

A. No.

Q. Oh, approximately. Just the number.

A. You mean as far as our competition was concerned, or any bridge company?

Q. This American Bridge Company was organized to engage in bridge-building generally, was it not?

A. I understand so, yes.

Q. Now I am asking about bridge-building generally. How many concerns were there left outside of it engaged in the bridge-building industry in the United States, either highway or railroad?

A. I should say about half a dozen important ones. There may have been a number of very much smaller ones, but just how many I do not know.

Q. You and I and the rest of us may not agree about what is important and what is not. Do you call yours an important one?

A. Yes.

Q. We do not want to get into any question over that. Let us have the number without any regard to your definition of the idea of importance.

A. I could not give you any notion of how many were out.

Q. I have here a supplement to the Iron & Steel Works Directory, 1903. I suppose you are acquainted with that work, are you not?

A. Not particularly with that number. But I am acquainted with the work.

Q. It is a reputable work, is it not?

A. Yes, sir.

Q. Relied on in the trade for its statistical information?

A. It is.

Q. When was the company formed??

A. As I remember, in 1900.

MR. DICKINSON: The book you are using is 1903, is it?

MR. LINDABURY: Yes.

By MR. LINDABURY:

Q. Now that gives the number with the name and the tonnage in each of the states, apparently existing at the end, I suppose, of 1902. It gives two of them in Maine, Fletcher & Crowell Company and Megquier & Jones Company. Do you remember them?

A. Never heard of them.

Q. It gives six in Massachusetts—Boston Bridge Works.

A. Yes, that is the one I had in mind.

Q. Do you remember that?

A. Yes.

Q. It was rather an important concern, was it not?

A. Yes, sir.

Q. The Eastern Bridge & Structural Company of Worcester?

A. Never heard of them.

Q. New England Structural Company of Boston?

A. That is a small concern, yes.

Q. It is given as having a larger annual capacity than Boston.

A. I did not suppose it had.

Q. 17,000 tons as against Boston's 15,000 tons. Norton Bridge Works, Springfield?

A. Never heard of them.

Q. Springfield Construction Company?

A. Never heard of them.

Q. I suppose it is a fact, is it not, that the territory in which any bridge company was able to operate in competition was more or less restricted, was it not?

A. I think it would depend upon the company itself.

Q. But there is not anything more expensive to transport than structural materials, whether they are for bridge or building, is there?

A. That is right.

Q. The expense of transportation from one locality to another is greater on structural shapes and bridge material than any other product of iron, is it not?

A. I should imagine it is, yes. I do not know.

Q. So that the area of competition in which any company or any plant, I will call it, can economically compete, is narrower in any other line of steel industry, is it not?

A. The quality of competition is governed by the freight, of course.

Q. For instance, the Boston companies could not compete with you for work in your locality on equal terms at all, could they?

A. Not on equal terms, no.

Q. You could not compete in the Boston district with the Boston companies on equal terms?

A. Not on equal terms.

Q. And was not the difference in the freight rate so much as to consume all the profits there would be in either case?

A. No.

Q. The profits are pretty large, then, in bridge construction.

A. We compete with Boston to-day.

Q. You do?

A. Right in their territory.

Q. But did you in 1903?

A. Yes.

Q. In bridge construction?

A. Yes.

Q. This publication gives the following concerns—I will give the number without reading the name:

Connecticut, two. I will give the names there: The Berlin Construction Company and the Berlin plant of East Berlin. You are familiar with those two?

A. Yes.

Q. One of them went into the American Company?

A. Yes.

Q. The other did not, did it?

A. That is right.

Q. None of those in Maine or Massachusetts went into the American Bridge Company, did they?

A. So far as I know, no.

Q. Twelve are given as completed and one as projected in the State of New York, the first of which is the Buffalo Structural Steel Company. Do you remember that?

A. No.

Q. Milliken Brothers. You know them do you not?

A. Yes.

MR. DICKINSON: Are you confining your inquiries now as to what existed in 1903?

MR. LINDABURY: Not confining it.

MR. DICKINSON: That is what I want to know, the scope of your inquiry. You are using a book there of 1903.

MR. LINDABURY: Giving the conditions in 1902. Now, I am going to do the best I can with this witness for 1900 and 1901, so far as he recalls.

By MR. LINDABURY:

Q. Milliken Brothers is an old concern, is it not?
A. Not very old, no.
Q. It was in existence in 1900, was it not?
A. I believe so.
Q. Doing a large business then, was it not?
A. Quite a large business.
Q. That did not go into the American Bridge Company?
A. No.
Q. Do you know the Owego Bridge Company, of Owego?
A. I have just heard of them, yes.
Q. You do not know much about them?
A. No.
Q. Of these twelve concerns in New York——

MR. DICKINSON: Have you read the twelve?

MR. LINDABURY: No. Of all the concerns in New York, twelve are mentioned, Judge, but there are a good many pages, and it would take all the afternoon if I read the book.

MR. DICKINSON: You have not called the witness's attention to the names of them. You are asking for something you have not called to his attention.

MR. LINDABURY: I will try to be fair and let you have this book.

MR. DICKINSON: I do not question your fairness, but I call attention to the fact that you are asking him about something to which you have not called his attention.

MR. LINDABURY: Just listen to my question, Judge, and see whether you are right.

By MR. LINDABURY:

Q. Twelve concerns are given as completed and one as projected, in New York. Did any New York concern except the Empire Bridge Company, which you have already mentioned, go into the American Bridge Company, so far as you know?

A. Not that I remember; not that I recall.

Q. In New Jersey there are five mentioned as completed, and one projected. The first is the Jackson Agricultural Iron Works. I think you have heard of that.

A. Is that in Jersey City? I thought it was in New York.

Q. It is down under the head of New Jersey.

A. Well, I have heard of them, anyway.

Q. Works at Aldine; its office in New York?

A. Yes; I have heard of them.

Q. It was quite an important concern in business?

A. Quite a concern.

Q. The Passaic Steel Company; you have heard of them?

A. Yes.

Q. Actual annual capacity 60,000 tons, but will be increased in 1903 to 100,000?

A. Yes, sir.

Q. Do you know whether it was increased or not?

A. No, I do not.

Q. You do not?

A. No.

Q. Do you think 60,000 was probably right?

A. I think it was over-stated.

Q. Did it roll its structural shapes?

A. Yes.

Q. It also made steel ingots and castings?

A. I understand so.

Q. The Raritan Structural Steel Company.

A. I never heard of them.

Q. With 20,000 tons capacity.

A. I never heard of that.

Q. With works in New Brunswick and offices in the Potter Building, New York.

A. I never heard of them.

Q. You say you never heard of them?

A. No.

Q. John A. Roebling's Sons Company. Did you ever hear of them?

A. At Trenton; oh, yes.

Q. They rolled rods and drew their wire, did they not?

A. They did.

Q. And they built suspension bridges?

A. Yes.

Q. It was some little concern, wasn't it?

A. A big concern.

Q. A big concern?

A. One of the biggest works.

Q. None of those went into the American Bridge Company?

A. No, I think not; not that I know of.

Q. The Trenton Plant, Trenton, New Jersey. That is the last one named here. That went into the American Bridge Company?

A. Yes.

Q. It was the only New Jersey plant, so far as you know?

A. That is the only one I can recall at the present time.

Q. Of the Pennsylvania plants the number given is 28 completed, and one building. What did you say the capacity of your plant was, the Phoenix Bridge Works?

A. At that time?

Q. Yes.

MR. DICKINSON: What time do you mean, 1903?

MR. LINDABURY: 1902.

A. I think about 50,000 tons.

By MR. LINDABURY:

Q. That is what is given in this directory?

A. Yes.

Q. Now, let us see about the others. One is down as the Brown-Ketcham Iron Works of Greensburg.

A. Yes.

Q. That was a considerable concern?

A. Yes, in certain lines.

Q. What lines.

A. More particularly buildings; no bridge work, as I understand.

Q. Where were their works?

A. I am not familiar with their works. I have just heard of the firm.

Q. Take the Fort Pitt Bridge Works at Pittsburg. Was that a large concern?

A. It has grown into quite a concern. At that time I imagine it was rather small.

Q. It is given here as having then a capacity of 30,000 tons. Is that about right?

A. I did not suppose they were as large as that at that time, but it may have been so. That was a new concern.

Q. Was it in business in 1900?

A. I am not certain about that.

Q. It started up about that time, do you think?

A. About that time.

Q. And it is still in existence?

A. Yes.

Q. Were these others that I have mentioned, in business in 1900, so far as you recollect?

A. Yes.

Q. I will ask you if any of these that I have named were not in business in 1900, to state that, as it occurs to you, as we go along, without my calling your attention to that in every case.

Q. What about the McClintick-Marshall Construction Company, of Pittsburg?

A. As I recollect they were formed after the American Bridge Company was formed.

Q. How soon afterwards?

A. Almost immediately afterwards.

Q. It was an independent concern, was it not?

A. It is now.

Q. And it was from its formation?

A. Both McClintick and Marshall were connected with the Shiffler Bridge Company that the American Bridge Company took over.

Q. Do you know the Penn Bridge Works?

A. Yes.

Q. At Beaver Falls?

A. Yes.

Q. Was that in business in 1900?

A. Yes.

Q. The Pennsylvania Steel Company I think you have mentioned. Now the Eastern Iron & Steel Company, with works at Pottsville. You know them, I suppose?

A. Yes.

Q. It is stated here that they rolled rolls, beams, channels, angles, and so forth. Is that right?

A. Yes. But you are talking about structural work now, and I imagine they were not in structural work at that time.

Q. It is stated here that they made railroad and highway bridges and iron and steel buildings?

A. I thought it was afterwards, but possibly it was in 1900.

Q. The Riter-Conley Manufacturing Company, of Pittsburg. Is that a large concern? It is given here as having an annual capacity of 100,000 tons.

A. Yes. Their principal business was blast furnace work, —boiler and blast furnace work.

Q. The statement is that they made railroad and highway bridges.

MR. DICKINSON: I object to this statement being put in the record this way unless you are going to put the book in evidence. You are making statements from books, and this is objected to.

MR. LINDABURY: It is cross examination.

MR. DICKINSON: Cross examination is one thing, but quoting from a book is another thing, and I object to the form of the cross examination. I am perfectly willing for you to put the book in, subject to my exception.

MR. LINDABURY: I think I have a right to state what is in the book and ask whether it accords with the witness's recollection.

MR. DICKINSON: I except to that as improper cross examination.

MR. LINDABURY: That is what you have done on direct, and I think I have a right at least to do it on cross examination.

MR. DICKINSON: What book did I use?

MR. LINDABURY: The Iron Age and some other book.

By MR. LINDABURY:

Q. This statement also says that company does building and structural work of all kinds.

A. That was its principal business.

MR. DICKINSON: I beg your pardon. I do not think I used the Iron Age, to be correct about it.

MR. LINDABURY: That is my recollection.

MR. DICKINSON: I think you are wrong about that.

By MR. LINDABURY:

Q. What did you say its principal business was?

A. My best knowledge is that its principal business at that time was the construction of blast furnace works. It might have done some structural and bridge work also.

Q. You are not so sure about that?

A. No.

Q. How is it that you are only able to recollect six concerns which did not go into the American Bridge Company, when there are twenty-eight in this State?

A. The six concerns which I mentioned are the ones which I considered were important and with which the competition between the Phoenix Bridge Company and these concerns occurred.

Q. Those which you consider important and which competed directly with the Phoenix are the ones you mentioned?

A. Well, those are the ones I had the best knowledge of, of course.

Q. You did not mean to intimate that that was an all-inclusive list?

A. Not at all.

Q. I see by this statement that twenty-three are put down as in Ohio and only one of them went into the Bridge Company.

A. I have no knowledge of that.

Q. And that of the twenty-eight in Pennsylvania only one went into the Bridge Company.

MR. DICKINSON: Have you any knowledge?

A. Only one.

By MR. LINDABURY:

Q. Only one of the twenty-eight in Pennsylvania went into the Bridge Company?

A. The Pencoyd and the Shiffler and the Keystone, and a whole lot of those others went in.

MR. DICKINSON: I object.

MR. LINDABURY: Didn't they go into an earlier company?

MR. DICKINSON: Your answer admits that more than that in Pennsylvania went in.

MR. LINDABURY: In an earlier company.

MR. DICKINSON: No; your answer admits that more than one from Pennsylvania went into the Bridge Company, and I object to the statement because it is not in accordance with the fact as admitted. Your answer admits that the Roberts Company, of Pennsylvania, went into the Bridge Company.

MR. LINDABURY: Are you saying this for my benefit, because I want to acknowledge my error, if you are?

MR. DICKINSON: Then, if you acknowledge your error, I do not think a man can do anything better than that.

MR. LINDABURY: No, you never did better than that yourself. This list gives the American Bridge Company as one, and seven under, so I was in error. That is, of the twenty-eight, the American Bridge Company is given as one, and there are twenty-seven others, and it is shown that under the head of the American Bridge Company there are seven that went into it.

MR. DICKINSON: From Pennsylvania?

MR. LINDABURY: In Pennsylvania. That is my error.

MR. DICKINSON: No; that is your correction.

MR. LINDABURY: There are twenty-seven outside and one building. Then I ought to say, Judge, for the same reason, that the Ohio list, while it shows only twenty-three, there is only one going into the American Bridge Company, and that one is the American Bridge Company, and it is stated that it had four companies or plants.

MR. DICKINSON: I do not understand that. Please state that again, will you not?

MR. LINDABURY: There are twenty-three given.

MR. DICKINSON: From Ohio?

MR. LINDABURY: Yes. One of which is the American Bridge Company, but under that head it is stated that four

plants in the State of Ohio went into the American Bridge Company. It makes twenty-two outsiders and one projected.

By Mr. Lindabury:

Q. In Indiana there are fifteen plants given. Do you know whether or not any Indiana plant went into the Bridge Company?

A. I cannot recall any.

Q. This statement is, I believe, that the LaFayette plant did. Do you remember the LaFayette plant? Do you remember the name?

A. Yes, sir.

Q. And that leaves fourteen out of fifteen Indiana plants that did not go in. Do you remember about any of the Indiana plants?

A. No.

Q. You do not know very much about them?

A. No.

Q. Take the Elkhart Company; did you know that?

A. I believe I knew there was such a company.

Q. The Brown-Ketcham Iron Works, with a capacity of 45,000 tons?

A. They are the ones you mentioned about being in Pennsylvania.

Q. There is a plant in each place. This is the Indiana plant.

A. The Indianapolis plant.

Q. The Indiana Bridge Company; do you know that?

A. Yes, sir; by name; that is all.

Q. You know it by name?

A. I know there was such a company.

Q. It did not come into competition with you?

A. No. They were a very small concern, and built highway bridges.

Q. Are you sure?

A. I do not know the tonnage, but I would call them a small concern.

Q. You do not consider everything as a small concern that did not compete with you, do you?

A. Not at all. I have no such notion as that.

Q. I believe you do not know much about them, since you did not meet them in business?

A. No.

Q. But the difference in locality might account for that very largely, might it not?

A. Do you mean that I would not know of them because they were in Indianapolis?

Q. Because they would not compete?

A. No; we competed in California for bridge work.

Q. Who did?

A. We did.

Q. Yes; but I am speaking about this company.

A. I meant the location would not alter the fact that I would know about them.

Q. Very well. In Illinois there are fourteen plants given here, or fourteen companies, I should say, one of which is mentioned as the American Bridge Company with two plants; so that made thirteen companies outside of the two taken by the American Bridge Company in that state. Did you happen to know that?

A. Including the Lassig Bridge & Iron Works?

Q. Yes.

A. That is three, then; the two bridge company plants and the Lassig Company.

Q. No. This states the two plants in Illinois, the American plant and the Lassig plant. They were both located in Chicago?

A. Yes; those two were.

Q. They made up the American Bridge Company plants?

A. I thought you said there were two American plants?

Q. I did. I meant those two,—the American and the Lassig plants. Together they make the Illinois plants of the American Bridge Company. And that left thirteen companies outside?

A. Yes.

Q. Do you remember the Illinois Companies, the Chicago Bridge & Iron Company?

A. Yes.

Q. That is an important concern, is it not?

A. Yes.

Q. Do you remember the Kenwood Bridge Company?

A. Yes.

Q. It was a considerable concern, was it not?

A. Yes.

Q. Those plants were all in business in 1900, were they not?

A. As far as I remember.

Q. In Wisconsin we have four; in Minnesota three; in Iowa four—

MR. DICKINSON: Just a moment, Mr. Lindabury. I want to ask the stenographer to read the last two or three questions.

(The stenographer repeated the questions and answers referred to.)

MR. DICKINSON: Do you mean by "those concerns" the ones that you have named?

MR. LINDABURY: Yes. I mean those that I have been naming.

MR. COLTON: And not the eleven or twelve that you did not name? In every state you say that there are—

MR. LINDABURY: Those that I have named, yes.

MR. DICKINSON: Just those that you have named?

MR. LINDABURY: Yes.

MR. DICKINSON: All right.

MR. LINDABURY: Of course, he cannot answer as to the others that I have not named.

MR. DICKINSON: I understand. I simply wanted to know what you understood your question to cover. That is all. I wanted to know whether it covered those that you did not name, or not.

MR. LINDABURY: No; I did not mean that.

By MR. LINDABURY:

Q. Do you know about the Springfield Bridge & Iron Company of Springfield, Illinois?

A. No.

Q. There are three in Minnesota, four in Iowa, three in Missouri and three in Kansas. With regard to the Minnesota

plants, do you know whether any Minnesota plant went into the American Bridge Company?

A. I think there was one of them that did, yes.

Q. The Minneapolis?

A. The Minneapolis.

Q. There are two others; the Minneapolis Steel Company and the St. Paul Foundry Company. Do you know what their size was as compared to the Minneapolis plant that went into the American Bridge Company?

A. No; I never heard of the St. Paul.

Q. The St. Paul is given as 7,000 tons and the Minneapolis 12,000 tons. Both were larger than the one that went in, were they not?

A. I do not know.

Q. Did you not know the St. Paul Foundry Company?

A. I never heard of it, no.

Q. In Iowa there are four given, no one of which went into the American Bridge Company. There is the Clinton Bridge & Iron Works, the Des Moines Bridge & Iron Works, the Fair Williams Bridge & Manufacturing Company, and the Marshalltown Bridge, Boiler and Machine Shop. Do you know those?

A. I have heard of two; I have heard of the first two you have mentioned.

Q. You know that neither of them went into the American Bridge Company?

A. I do not think they did.

Q. Missouri, there are three; the Banner Iron Works, the Koken Iron Works, and the Stupp Brothers Bridge & Iron Company. Do you know whether any of those went in?

A. No.

Q. Do you mean you do not know?

A. Yes.

Q. Kansas. Missouri Valley Bridge & Iron Works. Do you know that?

A. Yes.

Q. That is quite a concern?

A. Yes.

Q. And was in business in 1900?

A. I think so.

Q. The Topeka Bridge & Iron Works; do you know that?

A. No.

Q. The Wichita Works?

A. No.

Q. I will take the finish of these. There is one in Oklahoma. Do you know that?

A. No.

Q. That must be rather recent?

A. Yes, very recent.

Q. North Dakota, Washington, Oregon and California; and the end is United States. Total number of iron and steel bridge building works in the United States in January, 1903, which are described in this list, 140 completed, one building, and five projected. Does that accord generally with your recollection

A. I should say so.

Q. You would say that was about right?

A. Yes.

Q. And had there been any considerable number of those constructed in the two preceding years? I assume there had been some.

A. I imagine not very many.

Q. No abnormal growth in that time?

A. Not so far as I know.

Q. I will ask you the same question in regard to the third preceding year. Had there been anything more than an ordinary normal growth in that time, in the three years preceding the 1st of January, 1903?

A. Not that I remember.

Q. Since that time have further new concerns come into the field?

A. Yes.

Q. The number of the plants has very considerably increased, since 1903?

A. I should say there have been some new plants, but I do not know that I would say the number has considerably increased.

Q. The number being 140 then, is it not 400 now?

A. I do not think there has been any such increase as that.

Q. Have you no statistics on the subject?

A. No.

Q. There are statistics published, are there not, on this subject?

A. That list that you have been reading from, that indicates the plants.

Q. What statistical information is available in regard to the number of bridge building companies in the United States? You say there is this that I have been reading from.

A. That is the one. I think that is about the best.

Q. Have you that publication for the present year?

A. Yes.

Q. Have you it with you?

A. No.

Q. Can you tell me any of the principal ones that have gone into business since 1903?

A. No; I cannot think of any of great importance.

Q. You were somewhat surprised to learn that the present number in the business is 400, were you?

A. No, not at all surprised.

Q. And you have not, yourself, in your memory, exact information on the subject, have you?

A. No. I understood there were about 400 plants in the United States fabricating structural work.

Q. I understand the number to be 373 plants outside the American Bridge Company. That, you think, is about right?

A. I should say so, of all kinds and descriptions.

Q. Has the business of bridge building and structural work developed rapidly since 1900?

A. Yes. The tonnage has considerably increased.

Q. Your own business, I take it, has grown during that period?

A. Yes.

Q. I mean your tonnage. Has it doubled during that period?

A. No.

Q. But it has grown largely, and the business of the country has developed a great deal in that period, has it not?

A. Yes.

Q. Take structural iron work. Has that not doubled in the period of ten years?

A. I should say that alone had, yes. The building work, you mean?

Q. Yes.

A. Yes.

Q. I suppose you are not building quite as many bridges as you were ten years ago, but you are putting up quite as many steel buildings, are you not?

A. I think probably so.

Q. That is an important branch of your business, is it not?

A. Yes.

Q. Do you know what statistics show about the relative proportion of the output of the American Bridge Company at the time of its formation?

A. I understood the proportion was about 60 per cent.

Q. Did you get that from gossip or from statistics?

A. I think I got it from a general knowledge of the business that one expects to get, and from statistics. I thought that was about right.

Q. Do you know what it is now?

A. I testified that I thought it was about, if I remember rightly—

Q. Never mind what you testified before. Give your present recollection.

A. About one third of the total plants that you are mentioning now.

Q. That is, about 33 per cent of the business?

A. Of all these plants that you are mentioning.

Q. Are you speaking of capacity or output?

A. I am speaking of both.

Q. That is, its capacity and output is about 33 per cent. of the whole?

A. Of the whole 400, you speak of there?

Q. That is of all those who are in the same line of business or any of the branches of it carried on by the Steel Corporation?

A. All that have any works that could be called structural work in any sense.

Q. Including bridges?

A. Including bridges.

Q. I suppose some of those concerns do business in lines that you do not?

A. Oh, yes, a great many of them.

Q. And the steel corporation carries on lines of business that I presume you do not?

A. Certainly.

Q. Those that are common are few only, but important ones?

A. They are very important ones, I should say, but there are only two big branches of their business.

Q. Now you gave some information this morning with regard to the contracts taken during the last year by the American Bridge Company, and I think you did not give the tonnage, did you?

A. No, sir.

Q. What you did say, as I recall it, was that they took contracts enough to run their mills full?

A. Not their mills full, no.

Q. Their shops full. Contracts up to the limit of their capacity?

A. I think so; yes, sir.

Q. That is the way I understood you. Now, whether you call it mills or shops, or what, their full capacity?

A. I do not mean the mills; I have no knowledge of the mills.

Q. What did you mean to say about that? Let me have it again to be sure that I understand it.

A. Well, from my general knowledge of the business I should say that the American Bridge Company have been taking practically their entire capacity in the last year.

Q. By capacity you mean what? How do you rate their capacity?

A. I mean the capacity of their shops.

Q. That is their fabricating shops?

A. Yes.

Q. Now, I understand you. I did not before. And I think you said the other fabricators had not taken over about 40 per cent., perhaps, of their capacity?

A. No; I did not say that.

Q. Well, get me straight.

A. I said from forty to about 65. I should say some forty and some sixty-five. It would average, I should say, about 55 to 60 per cent.

Q. Very well; then if I recollect you right, the American Bridge Company, you thought, had taken 100 per cent. of its capacity and the others about 55 to 60 per cent?

A. Approaching that.

Q. Of contracts?

A. Yes.

MR. DICKINSON: As I understood him he meant those who competed with the American Bridge Company for that class of work.

MR. LINDABURY: Well, I assume he was speaking of competitors.

THE WITNESS: Yes.

By MR. LINDABURY:

Q. And I assume you meant they got this through competitive bidding, did you?

A. Largely so, I should imagine.

Q. Did you not mean entirely so?

A. Well, I didn't make any statement of that kind.

Q. Then it was not your intention——

A. I had no knowledge where they got all their business.

Q. Then it was not your intention to have us understand that they got this larger proportion of business by underbidding their competitors?

A. Oh, yes, the larger part of it, yes.

Q. How did you say you got this information?

A. Just my general knowledge of the bridge and structural business, knowing their deliveries and reading the trade papers, the tonnage that they took, and knowing the tonnages that the independents took, knowing the tonnage that we took, and I formed the general opinion that I have just given you.

Q. How did you learn the tonnage that the independents took?

A. The principal ones we learned directly through this bridge society that you spoke of.

Q. What is that called?

A. The Bridge Builders' Society.

Q. What is its location?

A. Its office is on Church Street, in New York, in the Hudson Terminal Building.

Q. When was that born?

A. One year ago.

Q. And who went into that?

A. About twenty-five companies.

Q. Engaged in structural iron work?

A. Structural and bridge work.

Q. Who are the principal ones?

A. The McClintic Marshall, the Pennsylvania Steel, the Fort Pitt, Toledo, Minneapolis Steel & Machinery, Lackawanna—there are twenty-five of the principal competitors outside of the American Bridge Company.

Q. The American Bridge Company did not go into it?

A. No, sir.

Q. So the independents that you refer to consist of the members of this association, do they not?

A. Yes; the principal ones.

Q. And the American Bridge Company is the outside or independent concern in this case?

A. Yes.

Q. Very well. Now, there is only one independent and 25 in this association. Is that right?

A. Yes, sir.

Q. And how often does the Association meet?

A. Every month.

Q. What day of the month?

A. The second Tuesday of the month.

Q. Are their meetings public?

A. You are invited.

Q. Are their meetings public?

A. Public. The doors are open.

Q. When do you hold the next meeting?

A. In Cleveland I think it is, on the second Tuesday in June.

Q. In Cleveland?

A. Yes, sir.

Q. You meet around?

A. Yes.

Q. Do not meet in Church Street?

A. New York occasionally, Pittsburgh, Chicago, Boston, Cleveland.

Q. Do you have a luncheon or dinner?

A. We certainly eat in the middle of the day.

Q. What do you call the repast?

A. We call it a luncheon.

Q. I see. Besides meeting and besides lunching——

A. It is not a dinner.

Q. I see. It is a mild repast?

A. Yes, very much. We do not discuss business at the repast.

Q. No; I take it not; do you do it before?

A. Yes; and after.

Q. And after, too?

A. Yes; before and after.

Q. Is not that dangerous?

A. For two days.

Q. Oh, you stay there for two days?

A. Yes.

Q. The whole twenty-five of you?

A. Yes, sir.

Q. You must do a lot of business in that time.

A. We try to.

Q. And you are all competitors.

A. Yes, sir.

Q. I see. Does that competition go on through the two days?

A. Yes, sir.

Q. And right on the floor?

A. Absolutely the same competition we had before, right on the floor.

Q. Do you exchange information?

A. Yes, sir.

Q. Do you report your orders?

A. Yes.

Q. And your prices?

A. Yes.

Q. And your tonnage?

A. Yes.

Q. Do you have a commissioner?

A. No.

Q. Do you have a secretary?

A. Yes.

Q. Do you sometimes in the course of your business put in sealed bids?

A. No; not now.

Q. When did you give that up?

A. Two months ago.

Q. How many?

A. About two months ago.

Q. Two months only? Well, why did you give up putting in sealed bids?

A. Because it was poor business.

Q. It was?

A. Yes.

Q. When you put in your sealed bids you immediately sent information about it to the secretary, did you?

A. The secretary always had the information, yes.

Q. That is, each man who put in a sealed bid immediately would give information of it to the secretary?

A. The secretary had all the information.

Q. You do not mean the secretary made up the bids for you, do you?

A. Oh, no.

Q. He did not get the information before you made the bid?

A. No.

Q. How did he get it?

A. As soon as we made the bid we sent the bid to the secretary.

Q. A copy of it?

A. A copy of it; a copy of the bid.

Q. And he was the secretary for all?

A. Yes.

Q. And these were competitive bids?

A. Yes.

Q. I see. What did he do with them?

A. He kept them private.

Q. Did he not send them to others?

A. You are speaking of sealed bids now?

Q. Sure?

A. No, sir; never sent them to the others.

Q. What did he do with them?

A. Just kept them there.

Q. What was the object of sending them to him?

A. There was no object. We gave it up; there was no sense in it.

Q. If nothing was done with the information—I understand nothing was done?

A. Nothing at all.

Q. Do not repeat that. I accepted it the first time.

A. All right.

Q. Assuming nothing was done with the information that you got in that way, how did you find out what the bids of these different concerns were, so as to know whether they got 60 per cent or 40 per cent or their fair share of the trade?

A. We only know in tonnages; we do not know at all the individual bids when they were sealed; we didn't have any idea.

Q. How could you know?

A. At the end of each month the Secretary reports to the whole society the tonnage taken by each member during the past month, the total tonnage, without any regard to orders.

Q. And the price also?

A. No; not with that report.

Q. By another report?

A. You see I could help you a little—

Q. You need not.

A. But you are talking about sealed bids.

Q. I do not care whether it is sealed or whether it is not.

A. Well, there is a great difference.

Q. I suppose so. But somehow or other you got at each of these monthly meetings—

A. Now—

Q. Listen to me. You got at each of these monthly meetings, through information furnished to the Secretary and by

him submitted, a full statement as to the tonnage that everyone of you put out, and the prices that they got?

A. No; we did not.

Q. I thought you said under a separate report you got the prices?

MR. DICKINSON: No; he has not said that.

A. No.

MR. LINDABURY: Let us get this right. The Judge knows better than I do. I am only seeking information.

MR. DICKINSON: No; I only know what he said.

MR. LINDABURY: You did not know before?

MR. DICKINSON: No; never asked about it and did not know about it at all.

MR. LINDABURY: I beg your pardon, Judge.

THE WITNESS: What is your question now?

By MR. LINDABURY:

Q. You got information, you told us a little while ago, about the prices that your members got?

A. Yes.

Q. How did you get it?

A. From every man that bids on a piece of work, all the prices are exchanged between the ones that are bidding on that piece of work, but given to no others in the society.

Q. That is, you only exchange information with the actual competitors?

A. That is exactly right, the actual competitors.

Q. You extended a very kind invitation to me to attend these meetings?

A. Yes.

Q. Did you ever extend one to Mr. Colton?

A. Yes.

Q. And did he attend?

A. He did.

Q. And when did he attend?

A. Oh, he has attended several.

Q. Several of them. Was that when you and he were working up this information you had tabulated here this morning?

A. Not at all.

Q. It was not then.

A. No.

Q. When did he first begin to attend them?

A. I can't remember; probably a couple of months ago; two or three months.

MR. COLTON: I object to that as hearsay.

By MR. LINDABURY:

Q. Was that when the sealed bids went out?

A. No, sir; he had nothing to do with the sealed bids.

Q. Were you in the sealed bid business when Mr. Colton began to attend the meetings?

A. I don't remember that. That has no relation to it at all.

Q. No; a coincidence.

A. No, it is not even a coincidence.

Q. Well, you seem to have stopped the sealed bid business about the time you say Mr. Colton began to first attend the meetings.

MR. DICKINSON: No; he did not state that at all.

A. No.

MR. LINDABURY: Didn't he?

MR. DICKINSON: He did not state anything like that.

THE WITNESS: No.

MR. LINDABURY: Hold on, Judge, you cannot get away with that.

MR. DICKINSON: I do not object to your examination, but I do object to a statement of that sort asserting the witness made that statement when he did not make it.

MR. LINDABURY: That is right, but I think you are wrong in your facts.

MR. DICKINSON: Read the record.

By MR. LINDABURY:

Q. Did you not say Mr. Colton began attending the meetings about two months ago?

A. I think it was about two months ago.

Q. And did you not say you gave up the sealed bids about two months ago?

A. I did.

Q. I will leave it to the Judge to work out whether that is a coincidence. The American Bridge Company was not a member of this society, was it?

A. No, sir.

Q. That was the independent?

A. Yes.

Q. The independent got 100 per cent of its capacity and the combination got only 60 per cent, and that is your grievance?

A. I did not say I had any grievance.

Q. Maybe I ought not to have used that term. But, anyhow let us see how you worked that out. You said you thought that the American Bridge Company must have an advantage over you or that they have an advantage over you in this bidding. I suppose because it got the business.

A. I explained this morning why I thought they had the advantage.

Q. You said you thought they had an advantage over you because they owned more of the processes by which this work was produced?

A. I can't think of any other reason.

Q. Let us look a little into that, Mr. Dean. You think a fabricator who owns some of the processes that precede the fabricating has an advantage over the mere fabricator who has to buy the materials for fabrication and does no part of the work except to fabricate. Is not that your idea?

A. Yes.

Q. Your company did something more than fabricate, did it not?

A. Yes; that is the Phoenix Iron Company; not the Phoenix Bridge Company.

Q. The one or the other.

A. We got about 60 per cent of our materials from the Phoenix Iron Company.

Q. The fabricating company is owned by the iron company, so you told us, did you not?

A. Yes, sir.

Q. Very well. Then you had an advantage, did you not, in your business, over a mere fabricator?

A. Well, to that extent, possibly.

Q. To that extent?

A. Yes.

Q. What is the process next before that pursued by the Phoenix Iron Company?

A. Next before what?

Q. What does the Phoenix Iron Company make that is used in structural work?

A. We make open hearth steel and roll it.

Q. Have you furnaces?

A. Yes.

Q. And what is there in the process of producing the finished structural steel that you do not have?

A. We have not the pig or ore.

Q. Now, the more that any one company has of those processes, the better position it is in to complete with others, is it not?

A. I should say so.

Q. And all you meant to tell us this morning, I take it, therefore, was, that a company which owns its ore and its transportation facilities and its furnaces, can make its pig and its bars and finally its shapes at an advantage over a concern that has only one or two processes?

A. I think so.

Q. That is all you meant to say, is it not by your testimony on that subject?

A. That is what I meant.

Q. That is the only advantage you meant that the Steel Corporation had?

A. Yes, and its transportation of course comes in.

Q. I meant to include the transportation. That is what you call nowadays integration, is it not?

A. Yes.

Q. So that the more a concern is integrated, the more it can compete for the trade of the world; is not that so?

A. What is that again?

Q. The more a concern is integrated, that is the more completely it owns the processes from the ore field to the finished product, the better it can compete in the world for the trade of the world. That is what you meant, is it not?

A. I do not know whether that is the logical conclusion or not.

Q. I thought that was what you meant us to understand, that the Steel Corporation has an advantage by the fact that it owns its own ore, its own transportation facilities, and all the processes down to the turning out of the finished structural material. That is what you meant, is it not?

A. Yes.

Q. And it has an advantage in the trade over any concern that has not equal facilities, I take it. That is what you mean, is it not?

A. It might market any one of its products throughout the world to advantage, but whether it could market its entire products to advantage, I am not certain about that.

Q. Take the structural steel with which you are concerned. What I meant was that by owning all the processes back to the ore field by which structural steel is produced, it had an advantage over the concern that owned only some of them?

A. I question whether throughout the entire operation the Steel Corporation's prices are low throughout the entire operation from the ore to the finished product. I question it very much.

Q. I do not think you understood me.

A. I think I understand you.

Q. You may understand what you are saying, but I do not think you understood the question.

A. I thought I answered your question.

Q. No, it does not answer it. The question is whether or not you consider it an advantage to a structural steel man, a commercial advantage, I mean.

A. To a structural steel man?

Q. To a structural steel man, to own all the processes by which that structural steel is produced from the ore all the way down?

A. Yes, the structural steel man can sell lower under those conditions.

Q. That is what I meant.

A. That is right, the structural man.

Q. The disadvantage you refer to, that your combination is under against this independent is because the members of the combination do not own these processes so extensively; is that right?

A. What combination are you speaking of?

Q. Association, I should have said.

A. I am not talking for the association.

Q. I think you called them this morning by the erroneous name of independents. You said that they were—

MR. DICKINSON: You mean the members of that association?

MR. LINDABURY: Colton's association.

MR. DICKINSON: I do not think he referred to the association.

MR. LINDABURY: He said that the members of the association only got 55 to 60 per cent.

MR. DICKINSON: He said the independents, as I understood him, those that compete with the Steel Corporation.

MR. LINDABURY: He knew nothing about the records of anything but that association.

By MR. LINDABURY:

Q. You do not know what the independents, so to speak, outside of your association and the American, bid on or got, do you?

A. Not as definitely as—

Q. These statistics all come from the association?

A. The more exact statistics.

Q. The statistics you were giving us this morning, about the 55 or 60 per cent the independents got, were the statistics gathered from that association?

A. Based on that.

Q. Then what you meant was that you found by an interchange of views before and after discussion with these gentlemen in that association that they were not in as good position to compete as the American, because they did not own so many of the processes by which the steel was produced?

A. I did not have to go there to find that out.

Q. You knew that without that?

A. I did.

Q. Who got up this association of yours? It was not Mr. Jackson, was it?

A. Who is Jackson?

Q. It was not Mr. Jackson of New York?

A. No.

Q. Who was it, do you know?

A. I cannot say that any one person was responsible for the organization. I think we all thought we needed it.

Q. Was not there some man who organized it?

A. No.

Q. No lawyer?

A. Oh, we have lawyers—

Q. Did you ever have a lawyer there except Mr. Colton?

A. Oh, yes, we had counsel all the time.

Q. Who was it?

A. Mr. Arthur J. Eddy.

Q. Mr. Eddy of Chicago?

A. Yes, of Chicago. You know him.

Q. Did that association have a constitution and by-laws?

A. Yes.

Q. I want to read you the fifth article of the constitution and see if it sounds familiar to you?

MR. DICKINSON: I do not object to it, but I think it is hardly a proper way to proceed.

MR. LINDABURY: It is just exactly the way you examined the witnesses about the Jackson constitutions—

MR. DICKINSON: Oh, no. I showed it to them.

MR. LINDABURY: I will show it to this witness, then.

By MR. LINDABURY:

Q. Look at the fifth article of the constitution of your society, which I now hand you, and see if you recognize it.

A. (After examination). Yes, I recognize it.

Q. That reads familiarly to you?

A. Yes.

Q. The fifth object is:

"5. To establish frankness in the exchange of information regarding bills, terms and prices actually made. To this end each member of the society agrees to file with the secretary copies of all bids, terms and prices within such period after same are made as may be reasonably required by resolution or by-law, it being definitely understood that each member

is at all times free to make such bids and quote such terms and prices as he pleases, and to change the same at will, either before or after filing with the Secretary, either before or after receiving information regarding bids, terms and prices made by others, the only obligation being to file promptly all bids, terms and prices as the same may be from time to time made."

Q. So that after you got the bids of your competitors each man had the right to change his own bid?

A. Yes We did not limit competition. The object was not to restrict competition at all. Each bidder had a right to change his bid whenever he chose, and the whole object of the society was to make the bidding open the same as if we were bidding on work in New York City.

Q. And this was the way you did when the freeholders or the supervisors asked for secret sealed bids?

MR. DICKINSON: I object to the statement of counsel as to supervisors, it not having been proven that there were any supervisors of that association, and it is a voluntary statement of counsel.

By MR. LINDABURY:

Q. Did not the members of your association compete for public highway bridges?

A. Certainly; I suppose they did.

Q. And was it not the custom for freeholders or supervisors, or whoever they were or whatever they were called, who had charge of the construction of the highway bridges, to ask for sealed bids?

A. Not at all. Nothing of the sort at all.

Q. When did you send in the sealed bids you have been talking about?

A. Two or three months ago we thought it would be advisable to do it.

Q. To do it, or to give up doing it then?

A. Two or three months ago we decided to do it, and then finally gave it up. Our customers had nothing to do with that.

Q. Did municipal ordinances generally call for sealed bids?

A. That has no relation to—

Q. Just answer that question. You always sent your bid in sealed, to railroads or any municipality; you sent in your bid sealed?

A. That would not necessarily—

Q. Now, wait. I want you to answer my questions, and then you may explain until doomsday if you want to. That being so, your bids were sent in to different public bodies were they not? In practice, I mean?

A. Yes, always.

Q. It was immediate information in regard to those sealed bids that this section of the constitution provided for, was it not?

A. Not at all; it had absolutely nothing to do with it.

Q. Did you not, under the operation of that section of the constitution, send immediate information to the secretary, of the sealed bids?

A. The sealed bids that you—

Q. No, no; answer that question, if you know, and then you may explain as far as you want to. Did you or not, in practice, under the obligation of this section of the constitution which I have just read to you, immediately upon sending in the sealed bids, send the information with regard to them to the secretary?

A. To the secretary, yes.

Q. That is what I asked you. Now, if you want to explain, you may do so.

A. I wanted to explain that the fact that it was a sealed bid we were submitting to a railroad company or a municipality had nothing to do with the sealed bids in the society. The sealed bid in the society was to conceal that information from the other members of the society. It had nothing to do with the sealed bid you are speaking of. You are speaking of another thing—

Q. No, you misunderstood me. I was not concerned with the sealing inside of the society because I never did think that amounted to anything.

A. That is exactly what it was.

Q. Exactly; but the bids you were to put into the municipality, under seal, and therefore secret, was immediately communicated to all your members, was it not?

A. Certainly; absolutely.

Q. To all the different ones who put them in?

A. Absolutely open, yes, and it is still.

MR. LINDABURY: So I understand. That is all.

REDIRECT EXAMINATION,

By MR. DICKINSON:

Q. Mr. Dean, did that society have any supervisor?

A. No.

Q. Did the members of that association announce to each other what their bids were going to be, and then, as the announcements were made by the different members, reach an understanding as to a common price?

A. No, absolutely no.

MR. LINDABURY: I object to this as cross-examination of counsel's own witness.

MR. DICKINSON: It is perfectly legitimate. You went into that matter yourself. You made him your witness on that, and I have a right to cross-examine him. There is no question about that.

MR. LINDABURY: I beg your pardon, Judge. I say you have not such a right. You have not a right to lead the witness, and you have not a right to ask him this anyway, which is not what he did, but what he did not do. You might as well ask him if he said his prayers—

MR. DICKINSON: Yes, I can ask him what he did do, and I will ask him what he did do.

By MR. DICKINSON:

Q. Was there an understanding between the members of that association when you left there, as to a common price or the same price that you were going to bid for the same work?

A. There was not.

Q. Was there any understanding or not among the members of that association when you left there, that upon any particular class of work you were going to fix a common price and would not change that price until you gave notice to the other members of the association?

A. There was not.

Q. Was there any agreement that you would not compete with each other?

A. No, sir.

Q. Was there any agreement that you would not seek to get each other's business?

A. No, sir.

Q. Did you have a chairman of the meeting?

A. Yes.

Q. State whether or not at any of those meetings he admonished you that you were under a moral obligation not to attempt to get the business of your competitors?

A. Yes. (Laughter).

Q. Who said that?

A. Counsel.

Q. Your counsel? What did he say?

A. If I understood your question—

MR. LINDABURY: Read that question and answer, please.

(The stenographer read as follows):

"Q. State whether or not at any of those meetings he admonished you that you were under a moral obligation not to attempt to get the business of your competitors?

"A. Yes."

THE WITNESS: I wish to correct that. That is wrong.

MR. DICKINSON: You got a laugh out of that that you were not entitled to.

MR. LINDABURY: Yes, we were entitled to it.

By MR. DICKINSON:

Q. Correct your answer, if you desire to.

A. I would answer no to that.

Q. Was there any understanding, directly or indirectly, as to carrying out until further notice to members of the association as to maintaining any price?

A. No.

Q. As I understand your description of your process, each member filed his bid on any particular work he was to bid on?

A. That is right.

Q. That was made known to the other members who were competing on like work?

A. Yes.

Q. And if they wanted to bid also they could do it?

A. Yes.

MR. LINDABURY: I protest against these leading questions asked your own witness.

MR. DICKINSON: I think you ought to be quite accustomed to it from your own practice.

MR. LINDABURY: You do not understand the difference, apparently, between direct examination and cross-examination.

MR. DICKINSON: I do understand the difference between direct and cross. When you have gone into a field with a witness I have introduced, and have taken up new matter with him, you make him your own witness as to that, and it is perfectly right under the rule for me to lead him in cross-examination. I understand that to be the law.

MR. LINDABURY: That statement is not accurate.

MR. DICKINSON: That is my understanding.

MR. LINDABURY: You yourself proved the existence of the association and the getting of information, and I cross-examined him upon it.

By MR. DICKINSON:

Q. Before the American Bridge Company was taken over by the Steel Corporation, was it or not a competitor of yours, and other independents in bridge work and steel structure?

MR. SEVERANCE: Which do you call the independents?

MR. DICKINSON: Those you spoke of outside the American Bridge Company. I will change that question.

By MR. DICKINSON:

Q. State whether or not before the American Bridge Company was taken over by the United States Steel Corporation your company competed with it in structural and bridge work?

A. We did.

Q. At that time did the American Bridge Company control transportation?

A. I think not, no.

Q. At any time did the American Bridge Company control ore?

A. I think not.

Q. State whether or not after it came under the control of the United States Steel Corporation, which controlled both transportation and ore, you felt a difference in the competition and the power of the competition?

A. I did.

Q. You were asked about marketing to advantage, and stated that a concern that had ore and transportation and the other facilities that were mentioned might, in your judgment, market one product to advantage, but not necessarily all. I would like you to explain more fully just what you mean by that.

A. My idea is that if we took the prices for their entire product from the ore, their transportation, their billets, their rolled material, their fabrication—took all those processes from the top to the bottom—I question very much if it shows that they could compete in their products, or that the prices were lower on account of the combination.

Q. What did you mean by marketing to advantage one product?

A. I meant that they could market any one of those products by taking care of some of the cost in the other products.

Q. Explain what you mean by that?

A. I mean that if the American Bridge Company had a bridge to construct, they might either absorb some of their costs——

Q. Who might?

A. The American Bridge Company or the Steel Corporation absorb it for them. Some of the cost of the rolling of the material or the fabrication or the erection in some of their other products.

Q. That is to say, your idea involved the fact that the American Bridge Company might be stronger in competition by having some of its costs absorbed by some of the other of the constituents of the Steel Corporation?

A. That is the only way I can explain some of the competition.

Q. You were asked about the number of plants that were

engaged in fabricating work as set out in this book that was shown you. What class of fabricants does that embrace?

A. The greater number mentioned were very small companies or plants engaged in light highway work and other light structural work, and their product was more localized.

Q. Were they or not the plants that came in competition with you and the American Bridge Company and the other concerns like you that were competing with the American Bridge Company for bridge and structural work?

A. They were the ones that the American Bridge Company absorbed.

Q. No, no. I understood you to say that in this large number there were a number of local plants?

A. Yes, sir.

Q. Did those plants come in competition with you and the American Bridge Company in the construction of bridge work and structural work?

A. Not to any serious extent, I think.

Q. You did not include them in your estimate of those who were competitors in that class of work?

A. That is right.

MR. COLTON: I move to strike out all references to my name or to the society as "my association" on the ground that I was attending the society by reason of an invitation extended from the Society to the Department of Justice to investigate it. I imagine that the references were in fun, but I want the record to show that.

MR. LINDABURY: I would like to debate that matter before the Court. Do you give notice that you move to strike out or will move to strike out, when we go to Philadelphia? Is that right?

MR. COLTON: No. I will ask counsel if they will strike out all reference to that. I would rather not have it in the record in such form.

(Thereupon, at 3:30 o'clock p. m., the hearing was adjourned until Tuesday, May 21, 1912, at 10:15 o'clock a. m.)

TENTH DAY.

ROOM 210, CUSTOM HOUSE,
NEW YORK CITY,

TUESDAY, MAY 21, 1912.

The hearing was resumed at 10:15 o'clock a. m., before SPECIAL EXAMINER HENRY P. BROWN.

Appearances the same as heretofore noted.

MR. DICKINSON: It having been called to the attention of counsel for the defendants by counsel for the Government that the record does not show that agreements and rules and regulations of the Bare Copper Wire Association were offered in evidence, counsel for the Government now offer the same in evidence, and, by consent of counsel for the defendants, it is agreed that the record shall show that the same are a part of the evidence and that those papers shall be included in the exhibits, marked "Government Exhibit No. 34-A."

JOHN C. LANGAN,

called as a witness in behalf of the United States, being first duly sworn, testified as follows:

By MR. DICKINSON:

Q. Where do you live, Mr. Langan?

A. In Brooklyn.

Q. What is your age?

A. Forty-one.

Q. In what business are you now engaged?

A. Real estate.

Q. Were you ever at any time associated with Mr. W. C. Temple?

A. Yes.

Q. As an assistant to him?

A. I was private secretary for W. C. Temple from July 1902, to December, 1906.

Q. I will ask you, Mr. Langan, whether or not you have

conferred with Government counsel as to what your testimony would be in this case?

A. No, sir.

Q. I will ask you whether or not you have refused to confer with them or talk with them on the subject?

A. I asked to be excused from any conference until this occasion here now.

Q. And, as a matter of fact, you have declined to give them any information?

A. That is true.

Q. At the time you were associated with Mr. Temple in the way you have spoken of, what was Mr. Temple doing?

A. Mr. Temple was engaged in quite a number of businesses, you might say. He was particularly in the business of steam boilers, and he was a considerable owner in the Pittsburgh base ball club.

Q. In addition to his connection with these matters to which you have referred, state whether or not during that time he was in charge of any pools and the administration of any pools, and if so, what they were.

A. I assume by "pools" you mean associations, as we called them?

Q. By "pools" I mean associations that were formed by manufacturers of different classes of material sold in trade with a view of concerted action in respect to the selling of those articles.

A. Yes; Mr. Temple was commissioner of three associations.

Q. Of what associations was he commissioner?

A. One was known as the Structural Association; the Steel Plate Association; and the third, the Steel Shafting Association.

Q. State what his duties were in connection with each of those associations, if they were generally the same, and if he had duties in respect of one that he did not have in respect of others, specify what those special duties were.

A. They were practically the same in all three associations.

Q. Describe what they were.

A. As nearly as I can describe his duties, they were to at-

tend various meetings that were held of these associations, to receive reports of the various companies as to their shipments, etc., and to compile those into one report and send it out to those members.

Q. Did you or did you not assist him in the performance of these various duties?

A. Quite a great deal, yes, sir.

Q. From the time you spoke of, in July, 1902?

A. No; I think I took up the work of those associations early in 1903.

Q. And how long did you continue in that work?

A. Until 1906.

Q. Until what date in 1906?

A. I think the last statement that I ever made up was the statement of October, 1906, which was made in November of that year, as nearly as I can recall.

Q. What did that statement show?

A. The last statement that I made simply showed, as nearly as I can recall, the tonnages of orders booked, those sold and those shipped.

Q. By the various members of the Association?

A. Yes, sir.

Q. Take the Structural Association; what was the name of that,—the Structural Steel Association?

A. Yes, sir; that is what I would call it.

Q. Who were the members of that association,—what corporations or partnerships?

A. I think there were about six or seven in that. There was the Carnegie Steel Company; Jones & Laughlin Steel Company; the Illinois Steel Company; the Phoenix Iron Works, the Pencoyd Iron Works.

Q. Was that the A. and P. Roberts Company?

A. I think it was, yes, sir. And, later, the Lackawanna Steel Company and the Cambria Steel Company, I think.

Q. Do you remember whether or not the Universal Construction Company was a member of that?

A. It was not, in my time.

Q. If it was, you do not recall it?

A. Under that name, no. I do not know anything about that company.

Q. Do you recall whether or not the Pottsville Iron & Steel Company was?

A. It was not during my time. I never knew anything about them.

Q. How about the Cleveland Rolling Mill Company?

A. Neither were they.

Q. How about the American Steel & Wire?

A. Of the Structural? Not to my knowledge.

Q. What was that?

A. Of the Structural Association, no.

Q. State whether or not this Association met from time to time?

A. It did.

Q. Did the representatives of these various companies attend the meetings?

A. They were generally all there. Once in a while some might not be there—

Q. State who represented the Carnegie Company at those meetings?

A. Mr. H. P. Bope.

Q. Any others at other times?

A. No one else that I recall.

Q. Who represented Jones & Laughlin Limited.

Q. Mr. Willis L. King.

Q. Any others?

A. No. He usually was there. Once in a while Mr. Geddes would be there, one of his assistants.

Q. One of whose assistants?

A. Mr. King's assistants.

Q. The A. & P. Roberts Company?

A. I have forgotten the name. He was a small man, the man who attended those meetings. I would recall it if you suggested it to me.

Q. Who represented the Passaic?

A. Oh, yes, the Passaic Company was in. I forgot them. A. C. Fairchild, I think it was, represented them; and sometimes Mr. F. S. Searing.

Q. Who represented the Phoenix Iron Company?

A. George Gary White, usually.

Q. Who represented the Cambria?

A. Mr. Powell Stackhouse.

Q. How often did those meetings take place?

A. Sometimes monthly, sometimes quarterly.

Q. You say that was the Structural Steel Association?

A. Yes, sir.

Q. State whether or not the parties to the Association were manufacturers and sellers of steel, I-beams—

A. Yes, they were.

Q. And channels of sizes not less than three inches in depth?

A. Yes.

Q. Was there or was there not any apportionment of percentage allotted to the different members of that Association?

A. For a time there was, yes, sir.

Q. On what basis was that allotment made?

A. Those allotments were originally made before I came into the Association.

Q. There were allotments; you know that?

A. Yes.

Q. Were those allotments observed in the settlement of the Association?

A. They were, I think, for a time.

Q. What do those allotments mean? That is to say, please explain what the allotments were.

A. As near as I can explain, I would say that they represented the ability of each company in its output originally claimed, and, later on, actual output. That is to say, as near as I can recall, the allotment for the next year would be based upon the actual tonnage for this year.

Q. That is, the proportion that each one could sell?

A. No; the proportion that each one shipped, the proportion of the whole.

Q. What was the whole?

A. The total shipments of those companies belonging to the association.

Q. That would be represented by 100 per cent, would it?

A. Yes.

Q. And then the allotment would be the proportion of that 100 per cent. that each one shipped?

A. Yes, sir.

Q. Based on the preceding year?

A. Yes, sir.

Q. Suppose a company shipped more than that allotment; what effect would that have under the agreement?

A. There was a tax on excess shipments. I think the tax was $2 a ton when I first went in, and later—no, I remember the tax was $4 a ton when I first went in, and then later it was reduced to $2 a ton.

Q. Where did that tax go?

A. That went to the short-shipped members.

Q. To whom was it paid in the first instance?

A. I understand to Mr. Willis L. King, the Treasurer. I did not handle the money myself. When I say "I," of course I speak in my capacity as an employe of Mr. Temple.

Q. Did that association have offices?

A. Yes.

Q. Did it have a president?

A. I think it had what we called a chairman.

Q. You have already mentioned the Treasurer.

A. Mr. King, the Treasurer; and I think a Chairman.

Q. You have mentioned a commissioner.

A. A commissioner.

Q. State whether or not it had any committee such as an executive committee?

A. Not that I know of.

Q. Not that you recall?

A. No.

Q. Who was the Chairman during the period that you speak of?

A. I think Mr. Powell Stackhouse. I am not sure as to the Structural. You are speaking of the Structural?

Q. Yes.

A. I am not sure as to the Structural.

Q. But as to the Structural, that is your best recollection?

A. Yes.

Q. Were any statements rendered to the Commission by the different members of the Association of their shipments?

A. Oh, yes; each month.

Q. Were they under oath or not?

A. I think for a time they were under oath.

Q. What did these statements show?

A. I stated that.

Q. Very well, if you have already stated it. What was the Commissioner's duty in respect of the other members of the Association when he received these monthly statements?

A. To draft them into one report and send one on to each member.

Q. He would make up a report from those statements?

A. Yes.

Q. And advise each member of the Association in regard to it?

A. Yes, they were sent to each member.

Q. Each company would send in its own statement?

A. Yes, sir.

Q. Would or would not the statements sent out by the Commissioner show the statement of each company; how was that?

A. I think it showed it in every detail.

Q. Do you know where the depositary of that association was?

A. No, sir.

Q. I will ask you who are T. Mellon & Sons?

A. There is a Mellon & Sons, Bankers, in Pittsburg.

Q. Do you know whether or not they were the depositary?

A. I do not know. I think they are the Mellon National Bank now.

Q. State whether or not the different members of this association made a deposit with the association or any officer of it?

A. They did not with the Commissioner. I do not know of any other.

Q. Do you know anything about the New Jersey Steel & Iron Company?

A. No, sir.

Q. Do you know anything about any contract or agreement with that company?

A. No, sir.

Q. Suppose a member of this Association had reason to believe that another member had violated the agreement,

what action, if any, would be taken, and what course would be pursued?

MR. LINDABURY: I object to that as calling for the contents of the agreement. I think the agreement is in evidence.

MR. COLTON: No, it is not.

MR. DICKINSON: That is the trouble. Your answer is rather evasive on that. That is one reason I have to go through this this way.

MR. LINDABURY: Let us see about this. Just wait a moment. You annex what you allege to be a copy, Exhibit B.

MR. DICKINSON: Yes.

MR. LINDABURY: I think we admitted that: "upon information and belief, they admit that in 1897 certain makers of structural steel entered into an agreement among themselves," and so forth. Is not that a full enough admission?

MR. COLTON: It does not say who entered into the agreement or whether it was these particular people that entered in. From that answer you would never know whether those companies were in it or not. You would not know who represented those companies. You say "certain makers." That might mean certain ones or all.

MR. LINDABURY: But we admit this is a copy.

MR. DICKINSON: You admit that is a copy of the agreement entered into by the parties, as shown on page 76 of the Government's Petition?

MR. LINDABURY: Yes. I cannot put any other construction on the answer. You see we admit upon information and belief, but for the purposes of the case that is a sufficient admission.

MR. DICKINSON: That exhibit B on page 76 is a copy of an agreement that was entered into at the date therein named by the parties therein.

MR. LINDABURY: Yes.

MR. DICKINSON: By the parties whose names appear on page 76?

MR. LINDABURY: Yes.

MR. DICKINSON: Page 76 of the bill.

MR. LINDABURY: That is what I understand to be the effect of our answer, yes.

MR. DICKINSON: Now there is one other thing: Do you agree that the parties so named acted under and in conformity with this agreement down to any period? That is what I am trying to prove.

MR. LINDABURY: Therefore I was not objecting to any of your previous questions, but this last one simply asked for a term of the agreement, you know.

MR. DICKINSON: I would not have asked that if I did not understand your answer——

MR. LINDABURY: You had better make your proof of what they did under it. It is our information, Judge, that that agreement was not carried out fully.

MR. DICKINSON: It was not carried out fully?

MR. LINDABURY: The fines were not imposed, and some other things. You had better get that out by proof. That is the only reason we do not want to make the full stipulation you refer to.

MR. DICKINSON: I would like if you would show just what you do admit and what you deny, because it would narrow the proof very much. Otherwise, I will have to go on and pursue my own method.

MR. LINDABURY: Well, I have not taken that up sufficiently with either my associates or my clients to quite do that now. My information is that in a general way they went on with that, but in a great many respects they either departed from it or failed to carry out the provisions. I am not at this moment prepared to indicate in what respects that was, so I think perhaps you had better go on.

MR. DICKINSON: What was my last question to the witness?

(The question was read by the stenographer as follows):

"Q. Suppose a member of that association had reason to believe that another member had violated the agreement, what action, if any, would be taken and what course would be pursued?"

A. Well, by violation of the agreement I assume you mean took a contract that the other man wanted, or took business that the other man wanted?

By Mr. Dickinson:

Q. Supposing he sold more than his allotment?

A. I never heard any discussion of that except at the end of the year.

Q. What would take place if one had violated the agreement?

Mr. Lindabury: You mean exceeded his allotment, Judge?

Mr. Dickinson: Yes.

Mr. Lindabury: He has said he paid in and what he paid in was distributed among those who sold under the allotment. He has covered that.

By Mr. Dickinson:

Q. What do you mean by taking business that the other man wanted?

A. Well, they all wanted all they could get, and sometimes if a man lost an order he would think perhaps that some body else took it away by some underhand method, and if it came up for discussion he would ask him, first, if he got such and such business, and if he answered yes, he would ask him how he got it, and he would perhaps tell him just how he got it, and that would settle the matter.

Q. That would settle the matter in what way?

A. Often it was found that buyers were bidding one against another, and that the buyer was not getting any advantage from one that he could get from another.

Q. How about price, though?

A. Prices were usually fixed.

Q. By the association?

A. Yes.

Q. That was one of the elements of the agreement, was it not?

A. As near as I can understand, yes.

Q. Did not they have a schedule of prices which they lived up to?

A. Yes; they had fixed prices.

Q. They all agreed to be bound by that price until it was changed?

A. Yes, sir.

Q. By agreement?

A. Yes, sir. That seemed to be the agreement. They all understood that was the price.

Q. And they all were to sell at that price?

A. Yes.

MR. LINDABURY: If they all sold at that price, there would be nothing to find fault about.

MR. DICKINSON: They would not find fault with each other, but the public might find fault.

MR. LINDABURY: But you were speaking of their complaining about selling under the price.

MR. DICKINSON: That was another matter.

MR. LINDABURY: That is all I meant.

By MR. DICKINSON:

Q. They did have pool prices?

A. They had a fixed price for it.

Q. A fixed price. Fixed by the members and by the association?

A. Yes, sir. That was not during the entire experience I had with them.

Q. But it was during part of the time?

A. Yes, sir.

Q. How long during the period you were with them did the association sell according to price fixed by the association?

A. I think that was up until the latter part of 1904.

Q. Did they continue the association after 1904?

A. They continued to meet, yes, sir, and kept up what they termed a statistical bureau which the commissioner took charge of, the same as he had taken charge of the shipments and tonnages before.

Q. Did the allotments continue after that time?

A. Yes, sir.

Q. Did the association meet?

A. Yes, sir.

Q. Did they discuss prices?

A. Well, I guess perhaps prices were discussed in those meetings in a general way.

Q. Was any announcement made by the different members as to the price at which they were going to sell, or not?

A. Yes; I have heard the members say: "I will sell my product at such and such."

Q. Did or did not the different members go on making those announcements?

A. Yes.

Q. What would the final announcement be? Would it be the same price or not?

A. Yes; there would be a general understanding.

Q. A general understanding when they left as to what the price would be?

A. At what price each member was going to sell, and that was usually the same price.

Q. How long was that continued?

A. There was no time fixed.

Q. Was there any understanding that they were to give notice or would continue that until there was notice given?

A. No, sir.

Q. As a matter of fact, how long did it continue?

A. Sometimes until they got outside of the room.

Q. But generally how was that?

A. Well, sometimes, you would not hear any complaints for a long time; sometimes you would hear them quickly.

Q. What complaints, and what kind of complaints?

A. Quite frequently a man would come to the commissioner with a story that he had heard that such and such a concern was selling steel at a ridiculous price, and he would ask him if he could not find out if that were true. The commissioner would usually ask the man who was charged with selling his steel at a ridiculous price if it were true, and he would tell him either yes or no.

Q. Then what would take place?

A. And then perhaps the man, if he had been selling at a killing price, would be asked to explain why he did it.

Q. Then go on.

A. Generally he would say not much of anything.

Q. Say not much of anything?

A. No.

Q. State whether or not before they would leave they would make another announcement of prices?

A. Yes.

Q. I mean all of them.

A. There would be usually only one interest there to make any announcement at all; the others had been doing the best they could and getting business the best they could.

Q. What do you mean by "doing the best they could"?

A. Trying to get the best prices possible for their product.

Q. Had they been selling generally at the same price or not?

A. That was the assumption, yes, but it was not true.

Q. That was their understanding of what each was going to do, was it?

A. Yes; that was assumed to be the understanding, but it was not true.

Q. That was assumed to be the understanding, that they were going to sell at a common price?

A. Yes.

Q. But sometimes they would find out that a man had not been doing that. Then you say they would charge him with selling at a ridiculous price?

A. Yes.

Q. And would he make explanation?

A. Sometimes, if it were true, but sometimes it was not true, that he had sold at a ridiculous price.

Q. Then would he make another announcement before they left?

A. Yes.

Q. State what that price would be, whether or not it would be the ridiculous price or the price that they had heretofore understood?

A. Usually it was what they termed a reasonable price.

Q. Did they say what that price was in dollars and cents?

A. Yes.

Q. That was a common price, understood by all?

A. Generally understood to be; yes, sir.

Q. Now, we have been speaking of the structural pool. You stated also that there was a plate pool?

A. I have always been educated to call them associations; never pools.

Q. We will use the more euphonious and less offensive term of "association." There was also, you stated, a plate association?

A. Yes, sir.

Q. Who were the members of that association?

A. As near as I can recall them they were the Carnegie Steel Company, Jones & Laughlin, Cambria Iron & Steel Company, Worth Brothers, Lukens Iron & Steel Company, Central Iron & Steel Company, Illinois Steel Company, Glasgow Iron Company, Tidewater Steel Company and Lackawanna Steel Company.

Q. Did you mention the Crucible?

A. And the Crucible Steel Company. I did not mention them. They were in.

Q. Did you mention the Otis Steel Company?

A. The Otis Steel Company was in also.

Q. Did you mention the Lukens Iron & Steel Company?

A. Yes, sir.

Q. And did you mention Worth Brothers?

A. Yes, sir; I mentioned them. There were about 12 of them, I think.

Q. Did you mention the American Steel & Wire Company?

A. No, I did not.

Q. Was that Company in?

A. They were in too. There were about 12 of them.

Q. State whether or not this Association, so far as your connection with it went, continued during the same period that you have spoken of with regard to the Structural Association?

A. Yes; it did.

Q. Now, at these meetings who represented the Carnegie Company—I mean the meetings of the Plate Association?

A. Colonel H. P. Bope.

Q. And Jones & Laughlin?

A. Mr. Willis L. King.

Q. Take the Illinois Steel Company. Who represented them?

A. George Baker.

Q. And the Crucible Steel Company?

A. One of the Parks.

Q. The Otis Steel Company?

A. Mr. Bartol.

Q. The Tidewater Steel Company?

A. I do not remember the gentleman's name.

Q. The Lukens Iron & Steel Company?

A. Mr. A. L. Huston.

Q. Worth Brothers?

A. W. P. Worth.

Q. The Central Iron & Steel Company?

A. Usually Mr. Bailey. I cannot think for the moment of his initials.

Q. The American Steel & Wire Company?

A. William— I cannot think of his last name for the moment. I know him very well.

Q. Palmer?

A. No.

Q. The Glasgow Iron Company?

A. Mr. Shoemaker. This other man's name is William. I will tell you that. I cannot think of his last name.

MR. DICKINSON: Mr. Lindabury, the agreement and stipulation we entered into just now was as to Exhibit B. Will you make a like one as to Exhibit A.

MR. LINDABURY: Let me see what we say in the answer.

MR. DICKINSON: That is just the agreement in regard to the plate.

THE WITNESS: Hirsh was that man's name.

MR. LINDABURY: We deny there was any agreement constituting the plate association.

MR. DICKINSON: You do?

MR. LINDABURY: Yes. That is at the bottom of page 38. You see what we say in the answer.

By MR. DICKINSON:

Q. State whether or not the members of this association met from time to time?

A. Yes, sir.

Q. What did they manufacture?

A. Generally steel plate.

Q. Did they have officers, and if so, what were they?

A. Yes, sir. They had a Chairman, Commissioner and Treasurer.

Q. Do you know who the President was?

A. The Chairman was the only officer of that character.

Q. Was Mr. Temple the Commissioner?

A. Mr. Temple was the Commissioner.

Q. Who was the Chairman?

A. Mr. Stackhouse.

MR. DICKINSON: Mr. Lindabury, in regard to Exhibit B, while the statement on record covers the names of the parties to the agreement, does it also correctly set forth the percentages? Will you agree to them?

MR. LINDABURY: We admit upon information and belief that that is a correct copy of the agreement in all its parts.

By MR. DICKINSON:

Q. State whether or not the members of this plate association had allotments of percentages?

A. They did, for a part of the time that I was with them.

Q. Do you know what the percentage, approximately, was of the Carnegie Steel Company?

A. As near as I can recall I should say it was around 40 to 45. It was in the 40's.

Q. In the 40's?

A. Yes.

Q. Towards 45?

A. Yes, sir.

Q. I will read you a list of percentages set out here and ask you to state whether or not they accord with your recollection, and if not, whether they differ?

MR. LINDABURY: I object to that, as leading. I think, Judge, you ought to take his recollection, and not read from a memorandum. It is not cross examination.

By MR. DICKINSON:

Q. Do you recollect whether or not it was approximately 46 per cent, that the Carnegie Steel Company had?

A. I could not tell you definitely. I have been out of the business for five years.

Q. But as near as you can state it was about 45?

A. It was in the 40's. I picked out 45 as being my nearest recollection.

Q. The Illinois Steel Company. What is your recollection, if you have any, as to that company?

A. I think they ran somewhere about 6, if I am not mistaken.

MR. REED: As to what time are you asking him?

MR. DICKINSON: The time he was with the Association.

THE WITNESS: They changed during that period.

MR. LINDABURY: They changed from year to year.

MR. DICKINSON: Yes, I know.

THE WITNESS: You say 1902. I was not with them in 1902.

By MR. DICKINSON:

Q. When did you go into this Association work?

A. 1903.

Q. You are giving your recollection as of that time?

A. I am giving a general recollection.

Q. You would not undertake to remember those exact figures?

A. No, sir.

Q. What can you say about the American Steel and Wire Company?

A. Do you mean my recollection?

Q. Yes.

A. I think theirs was quite small. I think it was one figure. I do not remember now just what it was.

Q. One figure would be something less than ten, would it?

A. It would be something less than ten.

Q. But you cannot say what it was?

A. No, sir. I do not think it was over five.

Q. Was it about five, as near as you can recollect?

A. I am very dim on those things now.

Q. State whether or not the members of that Association rendered sworn statements to the Commissioner?

A. Yes; they did.

Q. They rendered sworn statements of their shipments?

A. They did for a time.

Q. What would the Commissioner do with them then?

A. He would compile them into one large statement and send them out to each of the members.

Q. So each member would know what the other was doing?

A. Yes, sir.

Q. And the amount they were shipping?

A. Yes, sir.

Q. State whether or not they had a price that they agreed on?

A. The price never entered into this statement.

Q. I am asking you whether the Association did have prices?

A. Oh, yes.

Q. And they were fixed by the Association for a time?

A. Yes, sir.

Q. Below which price the members were not to sell?

A. Yes, sir.

Q. If a member of this association exceeded his allotment, state whether or not the process was the same as you have explained in regard to the Structural Association, and if there is any difference, state what?

A. Practically the same would be asked: What he was doing and how he came to get an increase of business, and sometimes, when he had a decrease in business, he was asked how that happened.

Q. Was there or not a fund paid into it?

A. Yes, sir; there was a tax in that association.

Q. State whether or not money was used to adjust these allotments?

A. I only assume that. I never handled that.

Q. You did not handle the money?

A. No, sir.

Q. Do you know anything about any deposit made by each member of the Association?

A. No, sir.

Q. Suppose a member had reason to believe that any other member of the association had violated any rules or understandings of the association; what course would be taken?

A. Well, if one member thought another was doing something that did not suit him or did not please him or that was not right—

Q. I am not asking as to what might suit him or please him, but I am asking as to something he claimed was in violation of the rules of the agreement.

A. There were not very many rules. I cannot explain to you a violation of something I do not understand. Now, what does he violate?

Q. Suppose he exceeded his allotment. Suppose it came to the knowledge of one member that another member had exceeded his allotment?

A. That was shown in the monthly report.

Q. State whether or not complaints were filed before the commissioner.

A. No, not before the commissioner. As I have told you, the matters would be brought up at a meeting, where a member would be asked how it came that he had such a big tonnage, what he was doing. Sometimes he would explain it very satisfactorily—in fact, generally he would do so.

Q. They accounted to each other for their conduct, under the association agreement, did they?

A. Yes, in a general way, they had obligations to one another.

Q. Did they have periods of settlement at any time, and if so, what were they?

A. Payments of cash, do you mean?

Q. No; periods of settlement. That is, the members of the association?

A. I do not know definitely of any settlements.

Q. How long did this association continue to be governed by the schedule of prices they had agreed on?

A. I think the same period, up to somewhere in the latter part of 1904.

Q. As to that, state whether or not they met.

MR. REED: You are speaking now of the Plate Association?

MR. DICKINSON: Yes, the Plate Association.

THE WITNESS: Yes, sir; they met frequently.

BY MR. DICKINSON:

Q. You have described in respect of the Structural Association what took place in regard to complaints and sales and announcements and understanding as to prices, and understanding when they would leave, et cetera. Now, state whether or not the same is true in regard to the Plate Association.

A. Practically true; yes, sir.

Q. Your answer would be just the same in respect of the Plate Association?

A. Yes, sir.

Q. Now take the Shafting Association. Who were members of that?

A. As near as I can recall, the Union Drawn Steel Company of Beaver Falls; Jones & Laughlin Steel Company; the American Steel & Wire Company; the Cumberland Steel Company; Brightman Compressed Steel Shafting Company; the Bridge Company of Pittsburgh, the first name of which I do not recall; the Buffalo Steel Company; the Hill Clutch Company of Cleveland; the Medart Pulley Company of St. Louis. I think there were thirteen or fourteen in that; I cannot recall——

Q. What did the members of this association make?

A. They made general steel shafting, cold drawn and cold rolled steel shafting; pulley wheels, pulleys and belt wheels, hangers and such things as that.

Q. State whether or not this association was similar in its organization and procedure and methods to the others, generally; and, if not, in what respect it differed from the others.

A. Yes, sir; it was similar.

Q. Did it have a commissioner?

A. Mr. Temple was the commissioner.

Q. Did it have officers?

A. I think, as near as I can recall, we elected a chairman at every meeting, in that association.

Q. Did they have prices fixed by the association?

A. Yes, for a time, like the others.

Q. Up to 1904, the time you have spoken of in regard to the others?

A. About the same time, yes.

Q. After that time, state whether or not they continued to meet together?

A. They did, regularly.

Q. Who represented the American Steel & Wire Company at these meetings?

A. George Rummel, of Chicago.

Q. Did he continue to attend those meetings after 1904?

A. Not very regularly. He was never very regular here.

Q. But did he continue to attend them?

A. He was at the meetings, yes.

Q. Was it ever represented by any other persons at those meetings? I am referring to the American Steel & Wire.

A. I think once in a while it was represented by Mr. Rummel's assistant in the Chicago office. He has a very odd name.

Q. Did the Shafting Association have allotments?

A. Yes, sir.

Q. Percentages in the same way that the other associations had?

A. Yes, sir.

Q. I believe that you said they had a commissioner?

A. Yes, sir; Mr. Temple.

Q. Did they make reports to the commissioner?

A. Yes, sir.

Q. In the same general way?

A. In the same way.

Q. And he made reports to the members of the association in the same general way?

A. The same general way; yes, sir.

Q. After this period you speak of, in 1904, when the price list was not formally agreed to—I believe you spoke of it in that way?

A. Yes.

Q. Did the members of this association continue to meet in the way that you have described as to the other members?

A. I think on further, that the Shafting Association met to a later time and had agreements to a later time.

Q. What time, do you think?

A. I cannot recall, but it impresses itself on my mind now that it was to a later time.

Q. You mean that the other members' agreements continued up to a later time?

A. Yes. How long I cannot say.

Q. But later than these other associations you speak of?

A. Yes, sir.

Q. How long, as near as you can fix it?

A. That association's affairs are harder to remember than the others, because they were a different lot of men, different interests were represented, very minute interests at times. While they were all fine gentlemen they were not the same men at all. In other words, they were not as big in the industrial world as the men in the other associations.

Q. You do not remember them so well?

A. I do not remember their actions so well. I remember all of them, but—well, they were not so stable as the others.

Q. But you do state that that continued under the price agreements to a later period than the others did?

A. I think that is true, yes. How long I cannot say.

Q. Can you fix any time to which that continued?

A. No; because in that association there was never anything absolutely certain at all.

Q. What do you mean by absolutely certain?

A. I mean their agreements were not kept as well as in other associations.

MR. LINDABURY: It perhaps faded out of existence instead of stopping at any definite time.

By MR. DICKINSON:

Q. After this period did arrive when they dropped the regular agreed prices, did they or not continue to meet?

A. Yes; they did.

Q. State whether or not they discussed prices at those meetings and made announcements, and left with a common

understanding in the way that you have described in respect of the Structural Association?

A. No; they did not; not in the way the others did.

Q. In what respect did it differ?

A. Well, when they went out they never knew what they were going to do. At least, the other fellow never knew what the other member was going to do.

Q. But did they have an understanding as to what they were going to do?

A. Yes; they said they would, and sometimes they did not say anything. In other words, there was continual wrangling there.

Q. They did not tote as fair as the other fellows?

A. No, sir; they did not. In other words, many of them would sleep while the meeting was going on, or go down and get a drink.

Q. They would wake up when they would go out after customers, would they not?

A. Some of them had their customers being taken care of while the meeting was going on. That was different.

MR. LINDABURY: That seems to have been an unobjectionable pool, Judge.

MR. DICKINSON: That is all, Mr. Lindabury.

CROSS EXAMINATION.

By MR. REED:

Q. This Shafting Association, to take the last thing up first, broke up while you were still Mr. Temple's secretary, did it not?

A. Yes, sir.

Q. You left Mr. Temple's service in December, 1906, I think you said?

A. Yes, sir:

Q. And it broke up before that time?

A. Yes; I think the previous month or so. In other words, there was nothing in any of the Associations after November, 1906, that I had to do with.

Q. What was the percentage of the American Steel and Wire Company in that Shafting Association?

A. I do not recall definitely. I would not say it was over 3.

Q. Not over 3 per cent?

A. No.

Q. Was there any other subsidiary of the United States Steel Corporation a member of that Shafting Association?

A. None that I ever knew as a subsidiary company, or ever thought was such a company.

Q. Take up the Structural agreement now.

I note by the agreement which is in evidence that the Commissioner had power to impose fines where any member of the Association sold under the pool price. During your connection with it was any such fine imposed?

A. Never to my knowledge.

Q. So far as you know that power was never exercised?

A. Never to my knowledge.

Q. Were these associations matters of public knowledge? Was it generally known among the trade that they existed?

A. Yes, it was. The newspaper men knew it; the trade paper men knew it, and many of the brokers, middle men, in the cities knew it.

Q. The market reports of the newspapers used to mention these associations, did they not?

A. Yes. In fact, we had meetings with the brokers, (dealers, we called them), in various cities.

Q. What was the attitude of the jobbers or dealers towards these associations? Did they protest against them or object to their continuance?

MR. DICKINSON: I except to that as irrelevant and incompetent.

A. They seemed to be very favorably inclined to them.

By MR. REED:

Q. Did you hear any statement or statements made by the members of this Structural Steel Pool about the time that the pool was dissolved, to indicate the reason for its dissolution?

MR. DICKINSON: I object to that as irrelevant and incompetent.

A. There were some discussions at a few of the meetings

prior to the dissolution as to whether they should continue or not, or whether it was right to continue or not.

By Mr. Reed:

Q. When it was decided to dissolve the Structural Association what reason was assigned for its breaking up?

A. Well, as near as I could state that I would say that Colonel Bope——

Q. Of the Carnegie Company?

A. Representing the Carnegie Company, stated that Judge Gary objected to it.

Mr. Dickinson: That is objected to as hearsay.

By Mr. Reed:

Q. Did he state whether or not Judge Gary had ordered him to withdraw from the Association?

Mr. Dickinson: Excepted to as irrelevant and incompetent.

A. Finally, yes.

By Mr. Reed:

Q. What reason was given for the breaking up of the Plate Association?

Mr. Dickinson: That is excepted to as hearsay, irrelevant and incompetent?

A. The same thing.

By Mr. Reed:

Q. This statement that you speak of being made by Colonel Bope was made in the meetings of the association, was it?

A. Yes, sir.

Q. Made publicly, with all of them present?

A. Yes, sir.

Q. After these associations broke up in the latter part of 1904, Mr. Langan, was there any agreement fixing the percentage of the business allowed to each producer?

A. None whatever.

Q. Was there, or was there not, any limitation of output of any kind?

A. Never was any limitation of output.

Q. You spoke of the tax upon the output of the members of the Association in excess of a certified percentage. I wish you would tell us while these associations were in force whether that fact operated to keep down the output?

A. No; I did not think it did. The tax was in my time $4 a ton and $2 a ton, and any member who was able to get the business at the price which was then current could make more money by doing all the business he could and paying the tax on what he did over his allotment.

Q. Was that their aim, to produce as much as they could?

A. Some of them seemed to have that aim.

Q. You tell us that tax was discontinued in the latter part of 1904?

A. Yes, sir; everything of that nature was discontinued at that time.

Q. The Commissioner continued to act as the statistician?

A. Yes, sir.

Q. Did he have any other authority or function after that time, in 1904, when the pools were dissolved?

A. None other than to take care of those reports and send out one single report to each member.

Q. And what did those reports that he sent out as statistician include?

A. Well, they practically included everything that was in the reports under the previous conditions, except the percentages.

Q. Then they showed shipments, did they, during the preceding month?

A. They showed in detail, as I recall it, bookings, that is, all the orders they took, and the stuff that they rolled, and the stuff that they sold, and the stuff that they shipped.

Q. Did it show prices?

A. There never was any price in those statements.

Q. It made no statement of percentage?

A. Other than what you could take your lead pencil and figure out, which is all I did on the other reports.

Q. It simply amounted to an interchange of information?

As to orders booked, amount of material rolled, amount of material shipped?

A. Yes.

Q. In these meetings of producers that were held after the pools broke up, you have stated that the producers who were present, would state their intentions as to prices. Was there any assurance given by any of them at those meetings that they would maintain those prices that they mentioned for any specific time?

A. None that I recall.

Q. Was there any promise by any of them who were present at those meetings that they would stick to a fixed price?

A. No.

Q. For any particular period?

A. No; they simply stated that "My price will be so and so."

Q. Did the manufacturers who were present at those later meetings, Mr. Langan, bind themselves to one another to conduct their business in any particular manner or fix their prices at any particular point, or were they left free to do as they pleased?

A. The only understanding I recall at these later meetings was that they would send in reports, and they were then not sworn reports after 1904; they were simply the same form, with the affidavit torn off.

Q. You do not quite catch my question. In the matter of limiting output or fixing prices, did they assume any obligation toward one another after the pool broke up?

A. I think I stated that, but I will answer no.

Q. I want to have it clear.

A. No; they did not.

Q. Was it not generally understood that all of those manufacturers should be free to conduct their business as they pleased?

A. Yes. The best evidence is, that as a rule they did.

Q. I want to call attention to the petition that is filed by the Government in this case. It is in here alleged that merely assembling and mutually exchanging information and declaration of purpose does not amount to an agreement or com-

bination in restraint of trade. Now, at these meetings of manufacturers of plates and of structural material held after these pools broke up, was there anything more done than merely assembling and mutually exchanging information and declaration of purpose?

A. That was stated and understood to be the only purpose, because they had already dissolved on the closer basis that they had previously had, and this was one where they were simply trying to keep in touch with one another.

MR. REED: That is all.

REDIRECT EXAMINATION.

By MR. DICKINSON:

Q. You say, however, that before they parted they generally announced a common price?

A. Each man announced what he was going to sell at, or those who made any announcements announced what they were going to sell at. It was usually the same price.

Q. Each understood that the other was going to sell at that price, unless he violated it?

A. I guess each understood what the others understood. I do not know.

Q. You were there, were you not?

A. I can tell you what I understood.

Q. You were at the meeting, were you not?

A. Yes.

Q. What did you understand?

A. I understood that they were to sell at the prices stated, which was the same price each one stated—which was the same price; I will end it there.

Q. I will ask you whether or not they did not understand that before they would change prices they would notify each other?

A. No, sir.

Q. You did not understand that?

A. No, sir.

Q. There was a general understanding that without notice they would continue to sell at that price, was there?

A. I understood so.

Q. That is what you understood? You heard what was said there?

MR. LINDABURY: I object to the question. It is not what the witness understood, and I object to the inquiry as to what the witness understood.

A. Yes.

By MR. DICKINSON:

Q. Was the object of that tax to increase production among the several members of the association?

A. I think the original object of that tax was to keep them from exceeding what they had been allotted.

Q. And that was what the money was paid in for, was it; that was the purpose of the tax?

A. I was not in the original formation, but I understood that that was the purpose.

Q. It was not to promote unlimited production on the part of the different members of the association, was it?

MR. LINDABURY: Is this expert opinion you are seeking?

MR. DICKINSON: You questioned him about the object of the tax, whether or not it kept down the prices.

MR. LINDABURY: Not what the object was, but what the effect was. This is opinion evidence which you are getting into.

MR. DICKINSON: Read the question.

(The stenographer read the question as follows.)

"Q. It was not to promote unlimited production on the part of the different members of the association, was it?"

A. I could not answer that question.

MR. DICKINSON: That is all.

PERCIVAL ROBERTS, JR.,

called as a witness in behalf of the United States being first duly sworn, testified as follows:

DIRECT EXAMINATION.

By Mr. Dickinson:

Q. Where do you live?

A. I live in Montgomery County, Pennsylvania.

Q. What is your age, Mr. Roberts?

A. 55 years of age.

Q. You are a defendant in this suit, I believe?

A. I am a defendant in the present suit.

Q. In what business were you engaged just prior to the formation of the American Bridge Company?

A. I was president of the A. & P. Roberts Company, which company operated the so-called Pencoyd Iron Works, near Philadelphia.

Q. After the formation of the American Bridge Company did you become an officer, and if so, please state what officer?

A. I became president of the American Bridge Company in the latter part of May, 1900 and continued as president until about May, 1901.

Q. Did you have any further connection with it as an officer or director?

A. Of the American Bridge Company?

Q. Yes.

A. I was a director of the American Bridge Company for a short time, possibly less than a year, subsequent to May, 1901.

Q. After the American Bridge Company was taken over by the United States Steel Corporation, state whether or not you became an officer or director of that corporation and what positions you have held with that corporation from that time down to the present time?

A. I became a director of the United States Steel Corporation in the spring of 1901; whether prior to or subsequent to the taking over of the American Bridge Company or the exchange of the securities of the American Bridge Company for the securities of the United States Steel Corporation I am unable at this time to state. I was a member of the Executive

Committee of the Board of Directors of the United States Steel Corporation and a director of that Corporation until the spring of 1902 when I resigned from the two positions.

I became a director, again, of the United States Steel Corporation, in the year 1909, the latter part of the year, I think, and I became a member of the Finance Committee of the same Corporation in the early part of the year 1911. I am at this time a director and member of the Finance Committee.

Q. Were you a stockholder in the American Bridge Company?

A. I was a stockholder in the American Bridge Company.

Q. Without asking you the amount of your holdings, was it a substantial amount?

A. I do not recall the exact amount at this time. My holdings came to me as part of the proceeds of the sale of my interest in the securities of the A. & P. Roberts Company to the American Bridge Company.

Q. Are you a stockholder in the United States Steel Corporation?

A. At this time?

Q. Yes.

A. I am.

Q. Did you become so at the time it took over the American Bridge Company?

A. At the time the securities of the American Bridge Company were exchanged for those of the United States Steel Corporation I exchanged my Bridge Company securities for those of the Corporation. Subsequently, upon my retirement from the United States Steel Corporation, I sold my securities and those that I now hold I have purchased since I again became a director.

Q. I did not ask you what you were now holding.

A. I did not state—

MR. DICKINSON: Read the question, please.

(The stenographer read as follows:)

"Q. Are you a stockholder in the United States Steel Corporation?

"A. At this time?

"Q. Yes.

"A. I am.

"Q. Did you become so at the time it took over the American Bridge Company?"

A. You refer now to my present holdings?

By Mr. Dickinson:

Q. No; I am asking if you became one at that time. I think you have already answered the question.

A. I did, and said that I had disposed of my holdings upon my retirement from the Board of Directors of the United States Steel Corporation.

Q. I did not ask you about the disposition of your securities; I merely asked you as to the fact of whether or not you became a stockholder at that time; then at the time the Corporation took over the American Bridge Company you exchanged your holdings in the American Bridge Company for stock in the United States Steel Corporation?

A. That is correct.

Q. Did you take part in the negotiations for the transfer of the stock of the American Bridge Company to the United States Steel Corporation?

A. None whatever beyond exchanging my own securities.

Q. Who represented the American Bridge Company in those negotiations?

A. There never were any.

Q. The stock was purchased, was it not?

A. My recollection is that a circular was issued by the bankers, Messrs. J. P. Morgan & Company, offering to give in exchange for securities in the American Bridge Company securities of the United States Steel Corporation. There was no corporate action at any time taken on the part of the American Bridge Company in the matter.

Q. You mean to say that the first you heard of the transaction was an announcement by J. P. Morgan & Company of their proposal?

A. Officially, yes.

Q. What do you mean by officially?

A. Exactly what I say.

Q. I will ask you, then, individually when was the first you heard of it?

A. Individually I personally had been told that such an exchange was to take place.

Q. How long before that announcement?

A. A short time; probably a week or two.

Q. Were there no negotiations with any persons representing the stockholders of the American Bridge Company and the United States Steel Corporation as to prices or whether or not the stock would be sold, previous to that announcement of J. P. Morgan & Company.

A. I was President of the American Bridge Company at that time, and I knew of no interviews or no interchange of opinion of any kind in the matter. The circular was issued directly to the stockholders; it did not come before the Board of Directors for any official action; nor had the Board of Directors, so far as I know, any knowledge of the matter whatever.

Q. Do you mean to say by that, Mr. Roberts, that J. P. Morgan & Company issued a proposition to buy the stock of these stockholders of the American Bridge Company without any previous negotiations between Morgan & Company and you or any other person representing these stockholders, as to whether they would sell, and as to what the price would be?

A. That is positively what I mean to say. What is more, it was not a purchase of stock; it was an exchange of one corporation's stock for that of another.

Q. That is a form of purchase?

A. It was a matter which did not necessarily come within the province of the Board of Directors of the American Bridge Company or of any of its officers.

Q. Had any negotiations taken place, to your knowledge, by any of the individual stockholders of the American Bridge Company, representing their own interests, with the Carnegie Company or any representatives of the United States Steel Corporation, for the sale of their stock or exchange of their stock to the United States Steel Corporation previous to that announcement I have spoken of as having been made by Morgan & Company?

A. I have no knowledge of any such, nor do I believe that any such took place.

Q. Had you not talked with any person representing Mor-

gan & Company about the sale of your stock, before that announcement?

A. The sale of my personal holdings?

Q. Yes.

A. I did not.

Q. Nor with any person representing the United States Steel Corporation?

A. I did not.

Q. Was the first knowledge that you had of the desire of the United States Steel Corporation to exchange its stock with the individual stockholders of the American Bridge Company the publication that you have referred to as having been made by Morgan & Company?

A. No.

Q. What was your first knowledge?

A. The first knowledge I had was an interview which I had, I think, with Mr. Robert Bacon in the offices of Messrs J. P. Morgan & Company, and at that interview he told me that the United States Steel Corporation, which had already been organized, was proposing to exchange its securities for the securities of the American Bridge Company.

Q. Who was Mr. Robert Bacon?

MR. LINDABURY: Has the witness finished his answer?

MR. DICKINSON: Have you finished your answer?

THE WITNESS: Substantially so, I think. Mr. Robert Bacon was a member of the firm of Messrs. J. P. Morgan & Company.

By MR. DICKINSON:

Q. When did you have that interview with Mr. Robert Bacon? Was it before or after this publication of the printed proposal sent out by Morgan & Company?

A. Possibly a week before.

Q. What transpired between you and Mr. Bacon?

A. As far as I can recollect, Mr. Bacon stated to me what I have just stated, and asked me if I would be willing to become a director of the United States Steel Corporation, to which I replied that I would. As far as I recollect, that was the only subject of the interview.

Q. Had you, then, agreed to sell your stock?

A. No.

Q. Then, before you agreed to sell your stock or exchange your stock in the American Bridge Company for stock in the United States Steel Corporation, you had agreed to become a director in that corporation?

A. I had.

Q. Was that to take place after the transfer of the American Bridge Company?

A. I do not think any time was specified. As a matter of fact, I am quite certain I became a director of the United States Steel Corporation prior to the taking over of the American Bridge Company.

Q. What do you mean by the "taking over of the American Bridge Company?" Do you mean the actual taking over?

A. Exchange of stocks.

Q. Did you become a director in the United States Steel Corporation prior to the consummation of the agreement to exchange the stock?

A. No, no.

Q. In 1898, and the several years next preceding that year, state whether or not the Pencoyd Works had a steel department and what was their capacity in gross tons of ingots per year?

A. The Pencoyd Iron Works was established in the year 1852 for the manufacture of wrought iron. Subsequently it engaged in the manufacture of steel—and as of what date?

Q. From 1899 and the two years previous thereto. That would be 1897 to 1899 inclusive?

A. And as of the period between 1897 and 1899, it had a capacity of about something over 200,000 tons of open hearth steel ingots per annum; and, in addition, a structural plant with a capacity of some 65,000 to 70,000 tons of fabricated structural work per annum.

Q. Did it make what is known as bridge work?

A. All types of frame structures, composed principally of wrought iron or steel.

Q. Channel bars, from two to fifteen inches?

A. That is another department. That is the raw, rolled material, from which structures are fabricated. It made

channels, beams, angles, T's, and the usual assortment of structural shapes.

Q. Deck beams?

A. Also bars, some sizes of plates, deck beams—

Q. Axles?

A. Axles.

Q. Bridge steel?

A. Bridge steel would be comprised in what I have already enumerated.

Q. Shafting?

A. Yes.

Q. Steel blooms?

A. Steel blooms; but to a very limited extent, and only when there was insufficient demand for a more highly finished form of product.

Q. I will ask you whether or not your specialties were structural shapes, axles, bar and bridge steel?

A. That is correct.

Q. Did you brand your work? If so, how did you brand it; did you have a brand?

A. In the early days it was customary to either roll into your material, or stamp with a stamp words, for instance in the case of our product, some of it was marked "Pencoyd," and the Carnegie Company's was marked "Carnegie," and so on; but there was no brand in the sense of a trade mark.

Q. At the time of the formation of the United States Steel Corporation state whether or not the Carnegie Steel Company and the Pencoyd Works were competitors in interstate commerce, and, if so, in what respect.

A. At the time of the formation of the United States Steel Corporation?

Q. Yes.

A. I would answer no, for the reason that the product of the Pencoyd works at that time was absorbed practically entirely by the shops of the American Bridge Company, which company also purchased a part of their supplies from the Carnegie Steel Company, but I could hardly consider that they were competitors.

Q. At the time that the American Bridge Company was taken over by the United States Steel Corporation, state

whether or not the Carnegie Steel Company and the Pencoyd Works were competitors?

MR. LINDABURY: I think he just answered that question.

(Upon request the stenographer read the previous question as follows:)

"Q. At the time of the formation of the United States Steel Corporation state whether or not the Carnegie Steel Company and the Pencoyd Works were competitors in Interstate Commerce, and, if so, in what respect."

MR. LINDABURY: That seems to be the same question that you have just put.

MR. DICKINSON: There is a difference in time.

MR. LINDABURY: If you meant that to be a different question, all right.

MR. DICKINSON: I thought there was a difference in the questions.

MR. LINDABURY: I thought it was a mistake on your part. The difference is merely that of about a month, is it not?

THE WITNESS: You speak now of two periods—the time of the formation of the United States Steel Corporation, and also the taking over of the American Bridge Company?

MR. LINDABURY: That is the difference, yes.

By MR. DICKINSON:

Q. Yes. Answer the last question.

A. The situation would be practically the same at both times mentioned.

Q. At the time that the Pencoyd Works were taken over by the American Bridge Company, state whether or not there was competition between the Carnegie Steel Company and the Pencoyd Works?

A. There was.

Q. In what respect?

A. They made—

Q. You say "they." Whom do you mean by "they"?

A. The Carnegie Steel Company and the Pencoyd Iron Works both made certain lines of products which were common to both.

Q. State what they were?

A. They were makers of structural material, such as beams, channels, angles, etc.; also axles, certain sizes of bars, and were also competitors in the manufacture of fabricated structures. They competed to the extent that they had a common territory into which the cost of transportation permitted them to enter. They were not wholly competitors; nor did they wholly reach a common market.

Q. Was this competition in interstate commerce outside of the State of Pennsylvania?

A. They both shipped outside of the State of Pennsylvania.

Q. And sold in common markets outside the State of Pennsylvania, to the extent that you have described?

A. They did.

Q. In what parts of the United States, at that time were you selling your products, such as were made by the Carnegie Company?

A. I cannot answer that definitely.

Q. Answer it as well as you can, please, Mr. Roberts.

A. Our markets extended in that time from Egypt and South Africa into Asia and into every State and Territory of the United States; but not at all times under similar conditions. We might today be able to ship bridges to Egypt, while tomorrow we would be unable to do so. I cannot cover that competition definitely over any extended period of time.

Q. Referring to what you have said as to your territory of sale and the shipments you made, state whether or not that applied to the Carnegie Company too?

A. I can only speak for my own company; I cannot speak for the Carnegie Company.

Q. Can you say whether or not you met the Carnegie Company in competition outside of the State of Pennsylvania?

A. We did from time to time, but not at all times.

Q. Did you in various parts of the United States from time to time meet them in competition?

A. We did.

Q. In the articles you have named?

A. We did.

MR. LINDABURY: I do not believe he means in all the articles.

By MR. DICKINSON:

Q. The articles they produced in common?

A. Common to both, I mean. My understanding of your question was that you asked me what products were common to both concerns, the Carnegie and the Pencoyd and I first defined their rolling mill products, that is, the products of the steel works, and also the fabricated products, or the products of their bridge plants. The Carnegie Company at that time was operating the Keystone Bridge Company at Pittsburg, and, of course, we met them in competition from time to time both in rolling mill products and in fabricated structures. Of course the market for fabricated structures was a wider one than the market for rolling mill materials.

Q. The rolling mill material was sold in interstate commerce, was it not, in competition?

A. Oh, yes, undoubtedly.

Q. Mr. Roberts, without my putting a series of questions, please state whether or not the Pencoyd works was at that time a competitor of the Illinois Steel Company in interstate commerce, and, if so, in what respects?

A. At what time was that?

Q. Just before the formation of the Bridge Company and the years shortly previous thereto.

A. To such a limited extent that it would practically be inappreciable.

Q. What did the Illinois Steel Company make that you made?

A. At the time you speak of I think they made a very limited line of structural material, such as angles, and did some small amount of fabricated work; but it was consumed largely locally. And I might say that practically we never met them in competition. I think it was under the name of the Universal Construction Company that they operated at that time.

Q. Yes. Did they make bridge material?

A. Do you mean the rolled material or the fabricated?

Q. Well, rolled material, and then material used in building structures.

A. They made their rolled structures to a limited extent only, and purchased the balance from other steel makers. Their structural works, as my remembrance serves me, was mostly in building work, as distinguished from bridge work. I think they did little bridge work, if any.

Q. State whether or not they did any bridge work and structural work outside of the State of Illinois?

A. I am unable to answer that question.

Q. How about the Cleveland rolling mill of the American Steel & Wire Company right after it went into the American Steel & Wire Company? The Cleveland Rolling Mill just prior to the formation of the American Bridge Company?

A. I never knew them as a competitor.

Q. Do you know what they produced?

A. I do not.

Q. Did your company have sales offices in New York, Chicago and St. Louis?

A. Which company?

Q. The Pencoyd.

A. At what time?

Q. Prior to its being taken over by the American Bridge Company.

A. In what cities?

Q. New York, Chicago and St. Louis.

A. They had sales offices in New York up to the year 1900; we had at various times prior to 1900 agents representing us in the city of Chicago, but I do not recall any connections in St. Louis.

Q. Mr. Roberts, prior to the year 1900 state whether or not there were periods of pools and agreements existing between such concerns as the Pencoyd and others making similar products in the United States say in 1900 and a short time prior thereto?

A. Many years prior to 1900, from time to time there were various associations of manufacturers formed, more or less of the nature of profit-sharing schemes.

Q. And arrangements for fixing prices from time to time?

A. Yes; there were agreements as to prices at which material would be sold.

Q. Were these agreements always kept, or were they broken from time to time?

A. Like all agreements, sometimes kept; sometimes broken.

Q. Were they constantly effective in controlling or steadying prices, or were they not?

A. They were usually the result of destructive competition which had reduced selling prices to below the cost of manufacture. When such situations developed from time to time, agreements were entered into to enable producer to obtain a reasonable return over and above the cost of production. As the market improved from time to time and consumption overtook production, these agreements usually failed or became of little value.

Q. They would get together from time to time, would they, and then break up again?

A. Agreements were usually the creation of depressed conditions, and they served their purpose, and in many cases died a natural death.

Q. And sometimes were they ineffective?

A. No; I think they were reasonably efficient.

Q. Would not members come together from time to time and continue for a while and then the agreements break up on account of members breaking faith with the others?

A. No.

Q. And would there not be war?

A. No; I think not. There may have been some instances of that character. There were instances of a condition such as I have just stated.

Q. What do you mean by the expression or understand by the expression "an unstable equilibrium"? I call your attention in that connection to the Stanley Hearings, page 323, where you are reported as saying:

"When it came to the point they felt they could no longer continue it, they came together and formed some temporary arrangement by which prices would be restored, which lasted probably a few years until some one made an unstable equilibrium, and then the matter was thrown open again until they came to such a condition of suffering that they renewed it. It was a case of coming together and breaking up again."

What do you mean by "state of unstable equilibrium," or some one "making a state of unstable equilibrium?"

A. Well, in physics, an unstable equilibrium would mean something that was topheavy.

Q. Pardon me, Mr. Roberts. I do not mean to go into a dissertion on physics. I was just asking you what you meant by that language, if you used that language.

A. I used that language, and I am trying to tell you what I meant.

Q. All right. Take your own way about it.

A. The agreements in certain instances became topheavy, and becoming topheavy there was unstable equilibrium produced, and the agreements fell apart of their own weight.

Q. What do you mean by "topheavy?"

A. An unstable equilibrium.

Q. Well, an unstable equilibrium means topheavy, and topheavy means an unstable equilibrium?

A. Practically they are correlative expressions.

Q. As applied to these agreements and the breaking apart, just state what element entered to make an unstable equilibrium.

A. These agreements could not continue in effect unless there was a stable equilibrium. An unstable equilibrium might be produced by a consumption which was too great for the production, or it might occur through the indifference of certain parties to the agreement, or being dissatisfied with the terms into which they had entered. As long as the equilibrium remained stable, they continued together, but when it did not, they separated. That was the meaning of what I said before the Stanley Committee. I think you are reading from my testimony there.

Q. Yes; I so stated.

MR. LINDABURY: Will you give the reference to his testimony?

MR. DICKINSON: Page 323.

MR. LINDABURY: No; the volume.

MR. DICKINSON: Volume six.

By Mr. Dickinson:

Q. If the parties agreed to maintain a certain price, and one of the parties sold below that price and it came to the knowledge of the others, would that bring about an unstable equilibrium?

A. No.

Q. What would it bring about?

A. It would not produce any results. Those unstable equilibriums to which I referred were usually a result of changed conditions which no longer seemed to make fair the allotted percentages of the total output. I know of no instances of the breaking up of any of those agreements due to the non-maintenance of the price. The important part in all of them was that feature of a profit-sharing scheme by which the several parties in interest divided pro rata their profits over and above their allotted percentages. In other words, to a certain extent an insurance fund that up to their several percentages they would be secured in their entire profits. I never knew an agreement to fail from the cutting of prices alone.

Q. Did you know whether or not there were pools entered into for the purpose of fixing and controlling prices among the members of those pools?

A. The agreement of the association was one thing and the arranging of prices was another separate agreement. They were not the same agreement and were not contingent one on the other.

Q. Are you speaking of any particular association?

A. I am speaking of the Structural Association.

Q. I am not speaking of that.

A. I understood that was the one you were speaking of.

Q. No; I am speaking generally, as to whether or not prior to 1900 there were pooling arrangements entered into from time to time for the purpose of controlling prices.

A. From my own personal experience and knowledge I have no definite knowledge of any of those agreements other than the Structural Association.

Q. And your answers then hitherto were intended to apply to the Structural Association, were they?

A. The Structural Association I was speaking of.

Q. You misunderstood me. I was asking generally and your mind was on a particular matter.

A. I thought you wanted my own personal experience as an expert?

Q. I wanted to ask you generally about the matter.

(Whereupon, at 12:30 o'clock p. m., a recess was taken until 2 o'clock p. m.)

AFTER RECESS.

At the expiration of the recess the hearing was resumed.

PERCIVAL ROBERTS, JR.,

the witness on the stand at the taking of the recess, resumed the stand for further

DIRECT EXAMINATION.

By MR. DICKINSON:

Q. Mr. Roberts, state whether or not you were at meetings of the Executive Committee of the United States Steel Corporation May 6 and May 13, 1901, at which a proposal was brought up to combine the people outside of the American Bridge Company who were engaged in the United States in building bridges and large structures?

A. The record will have to show. I have no recollection at this time whether I was present or not.

MR. DICKINSON: I want to use here, Mr. Lindabury, an extract from the minutes which I have already furnished you.

MR. LINDABURY: Yes.

MR. DICKINSON: And to question him about it.

MR. LINDABURY: We have gone far enough with those, Judge, to ascertain that those excerpts are substantially correct. There are some errors. We are going through all of the minutes to see what, if anything, in addition, we want to add.

MR. DICKINSON: I desire now to use this the same as if it were here.

MR. LINDABURY: That is all right. I find, Judge, that none of the headlines in that report are in the minutes.

MR. DICKINSON: Of course they would have to be omitted, then.

MR. LINDABURY: Yes.

By MR. DICKINSON:

Q. I will read you a copy of an extract from the minutes of May 6, 1901, showing that there were present Mr. Gary, (Chairman), Mr. Schwab, Mr. Roberts, Mr. Edenborn, Mr. Reid and Mr. Converse, and the following:

"The President stated that a Mr. Conger had a scheme by which it was proposed to combine everything outside of the American Bridge Company into one company. The President believed that such a combination of the different elements would work out well with the American Bridge Company, inasmuch as there would then be one interest to deal with instead of a number, with the consequent conflicting interests as to policy, etc. The question was not fully discussed, and laid over for a future meeting."

I read now an extract from May 13, 1901, showing present: Mr. Gary, (Chairman), Mr. Schwab, Mr. Roberts, Mr. Edenborn, Mr. Reid and Mr. Converse; the extract being:

"Mr. Roberts reported that he also has received a letter from Mr. Conger on the plan previously referred to this committee. Upon the recommendation of Mr. Roberts it was voted that no answer be made to Mr. Conger. The President inquired if there would be any advantages to the American Bridge Company if the proposed consolidation were effected. Mr. Roberts stated that as the small concerns are now, they do not amount to much in a competitive way, but is afraid they would become factors if consolidated."

Did those things occur at those meetings, and did you make that statement?

A. I recall generally the situation to which those minutes refer, yes.

As reported they do not quite correctly represent the proposition made by Mr. Conger.

Q. I will get to that a little later, Mr. Roberts. I am asking you now if you recall those meetings?

A. I recall the substance of those meetings.

Q. And, as far as they go, are they correct or not?

A. Not entirely.

Q. In what respect are they not correct?

A. They are not verbatim minutes. They are simply a memorandum of the discussion which took place, and they are, therefore, the opinion as to those matters of the man acting as secretary. They were not the minutes of the meeting. They were simply a diary.

Q. Are the statements that are made there true or false, as far as they go?

A. They are not true in respect to the fact that it was to be a combination of all bridge companies outside of the American Bridge Company. That was not correct.

Q. Is it correct as to your being present?

A. It is correct as to my being present.

Q. And as to Mr. Gary and Mr. Schwab and Mr. Edenborn and Mr. Reid and Mr. Converse being present?

A. I think those are matters of fact in regard to which there can be no question of doubt.

Q. You have specified some particulars where they do not fully set forth or correctly set forth what you think occurred. Now specify any further particulars in which they are incorrect, if any?

MR. LINDABURY: I object. I think the only proper question is what took place. He is your witness, Judge.

MR. DICKINSON: No; I am asking now about whether the things took place as recited by the minutes.

MR. LINDABURY: He says that the report is not accurate. Why not let him tell just what the proposition was?

MR. DICKINSON: I will get to that, but I am asking him now something different. He has specified some respects in which he thinks the minutes are inaccurate or inadequate. I want him now to specify fully on that point, and then I will come to the other matter.

A. That, I think, I have already done.

The principal matter of inaccuracy is that it was a proposition brought by Mr. Conger, and, as I recall the one that he wrote me about it was not a combination of all the outside

bridge building plants, but embraced a number of the smaller independent highway concerns, principally located in the east.

By MR. DICKINSON:

Q. I will ask you to explain what was involved in Mr. Conger's proposition, and what the United States Steel Corporation had to do with it; how it concerned it?

A. My recollection is that the matter was turned down without any further consideration, as not being a subject of any interest to the Steel Corporation, and that no action whatever was taken in regard to it. We had various propositions of that kind coming before us at that time, as I recollect, continuously, and they were simply reported to the committee, who took no action, nor even replied.

MR. LINDABURY: You have overlooked, Mr. Roberts, a part of the question; which was as to what the proposition was.

(By request the reporter repeated the question as follows:)

"Q. I will ask you to explain what was involved in Mr. Conger's proposition and what the United States Steel Corporation had to do with it; how it concerned it."

MR. LINDABURY: I suppose, Judge, you meant by "what was involved" what the proposition was?

MR. DICKINSON: Yes.

THE WITNESS: As I recall, it was a proposition on Mr. Conger's part to form a number of small independent concerns into one company, thereby giving them greater strength than they would have as independent concerns. In other words, an increase of capital would enable them to become more active in their several lines than they were then. The matter was of so little interest that it was not considered at the time, and, as far as I recall, no action whatever was taken in regard to it.

By MR. DICKINSON:

Q. What concerns did Mr. Conger propose?

A. I have no idea; I have no recollection.

Q. Did you know at that time?

A. At that time I think I must have known. I have no recollection now as to which ones they were.

Q. Could you name any of them now?

A. No, I could not.

Q. You do not know where they were located?

A. No, sir.

Q. You could not give the capacities of any of them, could you?

A. No, sir; I could not.

Q. Mr. Roberts, I will read to you from the minutes of the American Bridge Company of May 10, 1900, to the effect that the president reported to the board that Mr. Ladd had stated that he found himself unable to deliver and convey, or cause to be delivered and conveyed to the American Bridge Company certain of the plants, works and properties by him agreed to be sold and transferred under his agreement with the American Bridge Company dated May 4, 1900, namely, the plants, works and properties of the Bellfontaine Bridge Company, the Canton Bridge Company, the Chicago Bridge Company, the J. B. and J. M. Cornell, King Bridge Company, New Jersey Steel & Iron Company, Passaic Rolling Mill Company, Penn Bridge Company, Toledo Bridge Company and Wisconsin Bridge & Iron Company.

Q. State whether or not in the formation of the American Bridge Company the plan originally contemplated taking in those companies, besides the ones you did take in?

A. I have no knowledge of any transactions of the American Bridge Company at the time you refer to as it is prior to the date of my connection with that company.

Q. When did your connection with that company begin?

A. May 21, 1900.

Q. Your company went into that organization, did it not?

A. The securities of the A. & P. Roberts Company were sold to I. Gifford Ladd, and the Pencoyd Iron Works afterwards—the securities of the A. & P. Roberts afterwards were owned by the American Bridge Company, it remaining an independent, so far as the organization was concerned, an independent corporation.

Q. You say the securities were sold to Mr. Ladd?

A. They were sold to I. Gifford Ladd.

Q. At what time?

A. I think about May 1, 1900.

Q. Were they sold straight out to him?

A. Absolutely, for cash.

Q. What did he have? An option on them?

A. Absolutely sold for cash and securities.

Q. And securities?

A. Cash and securities.

Q. What kind of securities?

A. Stocks of the American Bridge Company.

Q. Then, at the time of the sale you knew you were going to get stock in the American Bridge Company?

A. At the time of the sale to I. Gifford Ladd?

Q. Yes.

A. That was part of the consideration.

Q. You were taking, as part of the consideration, stock in the American Bridge Company?

A. Correct.

Q. Did you or did you not know what companies it was then contemplated were to be taken over by the American Bridge Company, whose values would form the foundation upon which the value of that stock would rest?

A. I think so; yes.

Q. I will ask you whether or not at that time you understood the American Bridge Company would take over in that combination the Bellfontaine Bridge Company.

A. I do not at this time recall. My recollection is that I only knew of the list of companies which were actually taken over by the American Bridge Company at that time. I have no recollection of any which were not.

Q. Were you furnished with a list?

A. I think I was.

Q. By whom?

A. By Mr. Ladd, I think.

Q. When?

A. At the time of the proposed purchase of the securities of the A. & P. Roberts Company.

Q. When was that?

A. About May 1, 1900. I am not sure, however, of the exact date, but it was——

Q. Have you got that list?

A. No, sir.

A. What did you do with it?

A. I have not the faintest idea. I do not know that there ever was a list. He may have told me.

Q. Do you mean to say that you agreed to take stock in a new company, which was to take over certain properties, the value of which would be the foundation of the valuation of that stock, just upon a mere verbal statement of what was going into that company?

A. I think that was the basis of the transaction; yes, sir.

Q. Did you not know anything at that time, or have any information, as to whether the Canton Bridge Company would be taken into that combination?

A. I do not recall at this time; no.

Q. How about the Chicago Bridge Company?

A. I cannot recall.

Q. The King Bridge Company?

A. I would answer the same; I do not recall.

Q. The J. B. & J. M. Cornell?

A. I do not recall.

Q. The New Jersey Steel & Iron Company?

A. The New Jersey Steel & Iron Company was one of the properties purchased by the American Bridge Company

Q. Then you did understand, at that time, that the New Jersey Steel & Iron Company would be taken in?

A. I must have, because that was one of the concerns.

Q. How about the Paassaic Rolling Mills?

A. I never knew that that was to be.

Q. The Toledo Bridge Company?

A. The Toledo Bridge Company became a part of the American Bridge Company later.

Q. And the Wisconsin Bridge & Iron Company?

A. I do not recall.

Q. When the transaction was made under which the stock of your company was turned over to the American Bridge Company, was there a written agreement between the Amer-

ican Bridge Company and either the holders of stock of your company or Mr. Ladd?

A. My remembrance is that Mr. I. Gifford Ladd asked me whether I was in a position to name him——

MR. LINDABURY: You missed the question, I think. Did he not, Judge?

MR. DICKINSON: Yes. I think he has missed several.

(The question was repeated by the stenographer, as follows:)

"Q. When the transaction was made under which the stock of your company was turned over to the American Bridge Company, was there a written agreement between the American Bridge Company and either the holders of stock of your company or Mr. Ladd?"

A. I did not know the American Bridge Company in the matter, in the sale of the securities of the A. & P. Roberts Company, I only knew Mr. Ladd. There was, I think—although I do not know whether it is now in existence—a proposition from me to Mr. I. Gifford Ladd to sell all the stocks and bonds of the A. & P. Roberts Company to him for a certain consideration. That proposition was later accepted by Messrs. J. P. Morgan & Company on behalf of Mr. Ladd.

By MR. DICKINSON:

Q. I will ask you whether or not the agreement you had with Mr. Ladd, or the proposal from him to you or you to him, whichever constituted it, which was accepted by Morgan & Company, involved a provision in substance as follows: That the persons selling the stock in your company would not during some period, directly or indirectly, without the consent in writing of the Bridge Company, engage or be interested in the business of bridge building or manufacturing or selling structural iron and steel, either individually or as copartners in any firm, as agents for others, or as officers, directors or stockholders of any corporation or association other than the Bridge Company or its successors in any State, District or Territory of the United States, or its possessions, except the Territory of New Mexico?

A. There was absolutely no agreement of any kind beyond naming a sum of money at which the securities would be sold. In that transaction I represented solely the stockholders of the A. & P. Roberts Company.

Q. Did you have any written agreement with Ladd for the sale of those stocks?

A. Nothing except my proposal, which was accepted on Ladd's behalf by J. P. Morgan & Company.

Q. Was that in writing?

A. I do not think it was accepted in writing. The proposal naming the price at which the securities would be sold was in writing. I think the acceptance was made verbally by Charles Steele, in the office of Drexel & Company, in Philadelphia.

Q. Have you a copy of your written proposal?

A. I do not think I have.

Q. Did you keep a copy of it?

A. There may have been a copy filed at that time, but I have had no occasion to look it up since then, and I have not looked it up to see whether there was a copy made.

Q. Will you look and search among your papers and see whether there is a copy?

A. Yes.

Q. And if so, please produce it and I will recall and examine you about it.

A. Very well.

Q. I will ask you whether or not Ladd in turning over properties and securities to the American Bridge Company entered into a contract with the American Bridge Company containing substantially a provision like that which I have just recited to you?

MR. LINDABURY: Do you read from any page that we can refer to?

MR. DICKINSON: I am not now reading from any page, but the page I read from a moment ago was page 4171 of MacRae's report.

(Upon request the stenographer repeated the question as above recorded.)

A. I have no knowledge of any agreements between Mr.

Ladd and the companies turned over to the American Bridge Company other than such obligations as may have been acquired on the part of the Bridge Company.

By Mr. Dickinson:

Q. I am asking you not about the agreement between Ladd and those several companies, but whether or not there was an agreement entered into between Ladd and the Bridge Company which contained a provision substantially like the one I quoted to you above.

A. I have no recollection of any such, and if there is such a one it will have to speak for itself. I do not recall it.

Q. You became the president of the American Bridge Company?

A. I did.

Q. Were you or not cognizant of its affairs at that time, and the properties acquired?

A. I was.

Q. And the terms and conditions under which it acquired them?

A. Not altogether, no. The transaction was a completed whole at that time, and I assumed the presidency of that company with its obligations as they then existed. I did not look into the details of the contracts between Ladd and the properties which he purchased, unless there was reason to do so on behalf of some obligation on the part of the Bridge Company. I do not recall that at any time there was ever any occasion to know or to exercise any such rights as you refer to. As to whether such agreements exist I am not at this time prepared to say.

Mr. Dickinson: I am now going to read from page 4184, Mr. Lindabury.

By Mr. Dickinson:

Q. I will ask you whether or not you were present at a meeting of the American Bridge Company January 21, 1904, or whether, if you were not present, you knew that a transaction occurred substantially as follows:

"In view of the contract to be made between Post & Mc-

Cord and the American Bridge Co. of New York, the said McCord is relieved of his obligations and disabilities under agreement with the company as of April 30, 1900.

"Resolved, That the company relieve William H. McCord from his obligations and disabilities incurred under his agreement with the company as of April 30, 1900, in so far as to consent to his having become an incorporator, stockholder and officer of the said Post & McCord (Inc.) and to consent to his remaining a stockholder and officer of the said Post & McCord (Inc.), doing such other acts as shall be necessary for the carrying out of the contract to be made between the said Post & McCord (Inc.) and the American Bridge Co. of New York, or any modifications for renewal thereof, etc."

A. I have no knowledge of the transaction to which you refer, as at both those periods I had no connection whatever with the American Bridge Company.

Q. Mr. Roberts, did you have no knowledge whatever of any contracts between the American Bridge Company and Ladd or the American Bridge Company or any other persons, by which as a part of the transaction under which the American Bridge Company acquired the stock or control of properties of the several companies which were combined in the Bridge Company at the time of its formation, under which the sellers of those stocks or those who had been officers of the corporation that those stocks represented agreed that they would not for a period of twenty years enter into the respective character of business which had been carried on by the several companies in which that stock had been held?

Do you understand that question?

A. I think I do, sir.

Q. Answer it, please.

A. I cannot either affirm or deny that such contracts existed with Ladd or were assigned by Ladd to the American Bridge Company. During my connection with the Bridge Company I never had any reason to discover whether any such contracts were in existence. I do recall, however, that during my connection with the company at least one man who

was an officer of the Bridge Company, and retired from it, re-entered the bridge business immediately.

Q. Was or was not that by the consent of the American Bridge Company?

A. The question was not raised.

Q. Then, you do not know whether he violated the agreement or not?

A. So far as I was concerned, I should have considered such agreements not worth the paper they were written on.

Q. That is not responsive to my question. Repeat the question. Read it to the witness.

(The stenographer repeated the question.)

A. I was only giving a reason why possibly I had not gone deeper into the matter of whether such contracts did exist. But as to whether they did or not it is impossible for me at this time to say.

MR. DICKINSON: (To the stenographer.) Repeat the question.

(The question was read by the stenographer, as follows:)

"Q. Then, you do not know whether he violated the agreement or not?"

A. I do not.

By MR. DICKINSON:

Q. Did you or not, at the time you agreed to sell your stock in the Pencoyd Company and take as a part consideration for that stock in this proposed American Bridge Company, know that the contracts under which other properties were to be acquired required that any parties should desist for any period of time from carrying on the business of those several companies?

A. I had no knowledge of the matter whatever at the time I sold the securities of the A. & P. Roberts Company.

Q. If that entered in as an element of the value on which you say you exchanged your stock, you say you did not know it at that time?

A. I had no knowledge of it whatever.

Q. Mr. Roberts, do you know anything about a contract with the Carnegie Steel Company, entered into by the American Bridge Company shortly after its formation, whereby the Carnegie Steel Company agreed not to manufacture or sell any bridges, viaducts, elevated railroads, stations, or any structural material during the life of that contract?

A. I recall such a contract, yes. As to the contents of it, I would refer to the contract.

Q. I will read you from page 4172 of the hearings before the Stanley Committee, which purports to be such a contract, and ask you whether or not there was such a contract:

"This agreement, made this 30th day of April, 1900, by and between American Bridge Co., a corporation organized under the laws of the State of New Jersey, hereinafter referred to as the bridge company, and Carnegie Steel Company, a corporation organized under the laws of the State of Pennsylvania, hereinafter referred to as the Steel Company.

"Now this agreement witnesseth that the bridge company, in consideration of the covenants hereinafter contained to be kept generally and performed by the steel company, hereby agrees with the said steel company, its successors and assigns:

"That for and during a period of ten years from the date hereof the bridge company will purchase from the steel company, and does now hereby agree to purchase, receive and pay for at Pittsburgh, Pa., not less than 51 per cent. of all rolled shapes of steel and not less than 75 per cent. of all steel plates and bars required in the business of said bridge company at all its works during said period of ten years. The said steel shall be used in the manufacture of bridges, viaducts, elevated railroads, station sheds, and work of like character, and shall not be resold by the said bridge company without having undergone some process of manufacture at its works.

"The prices to be paid for each class of material shall be the prevailing market prices thereof, to be agreed upon in writing monthly between the 15th and 25th days of the preceding month, the said prices to apply on all orders and speci-

fications filed by the bridge company with the steel company during said month for which prices are so fixed.

"The terms of sale of the steel material purchased under this agreement shall be monthly settlements in cash on the 20th of each month for the preceding month's shipments.

"In consideration of the undertaking by the bridge company to purchase steel as hereinbefore set out and of the further covenants herein contained, to be kept, done, and performed by the bridge company, the steel company hereby agrees with said bridge company, its successors and assigns:

"That the steel company agrees to sell and will manufacture and deliver, on orders and specifications to be furnished by the bridge company, plates, angles, beams, channels, and other forms of rolled steel required in the business of the bridge company as set forth hereinbefore, provided the same be the products of the works of said steel company.

"That during the life of this contract and during the fulfilment of the covenants of said bridge company herein contained the steel company will not manufacture or sell any bridges, viaducts, elevated railroads or station sheds, or any steel material.

"It is further mutually agreed as follows:

"Should the bridge company not make two-thirds of all the bridges, viaducts, elevated railroads, station sheds, and similar works erected in the United States, then shall the steel company, if it so elect, have the full right, privilege and option of again engaging in the bridge business, after one year's written notice served upon said bridge company at its general office and at the expiration of said year this agreement shall terminate.

"All matters in connection with this agreement upon which difference of opinion may hereafter exist, whether as to prices of materials or rights and obligations under this agreement, shall, failing amicable adjustment within two weeks, be determined by arbitration of three arbitrators, one to be selected by each of the parties hereto and the third to be appointed by the arbitrators so selected and the decision of the said arbitrators or of a majority of them shall be final and conclusive.

"The provisions of this contract shall apply to the succes-

sors or assigns succeeding to the business of each of the parties hereto.

"In witness whereof the parties hereto have hereunto affixed their respective seals, duly attested, this day and year first above written. American Bridge Co.'s seal, E. M. F. Miller, President. Attest: Robert S. Green, Secretary. Carnegie Steel Co.'s seal, L. C. Phipps, Second Vice-President. Attest: A. M. Moreland, Secretary."

I will ask you whether or not there was such a contract made with the Carnegie Steel Company and in force while you were an officer of the American Bridge Company?

A. There was such a contract between the Carnegie Steel Company and the American Bridge Company.

MR. DICKINSON: Mr. Lindabury, I would like you to agree that I may introduce this copy in evidence instead of the original.

MR. LINDABURY: Where is the original, do you know?

MR. DICKINSON: I really do not know. Of course we could search for it. I mean to offer this subject to correction, of course.

MR. LINDABURY: Let me see. Did Mr. MacRae get this from the Carnegie Company? I suppose he did.

MR. DICKINSON: Yes; it was presented to the board.

MR. LINDABURY: We will admit it, subject to correction.

MR. DICKINSON: The same as if it were the original?

MR. LINDABURY: Yes.

MR. DICKINSON: Then I offer it in evidence.

(The paper, so identified, was thereupon offered in evidence, and marked "Government's Exhibit Roberts No. 87, May 21, 1912.")

MR. DICKINSON: That is all, Mr. Lindabury.

MR. LINDABURY: All with this witness?

MR. DICKINSON: That is all for the present, yes.

CROSS EXAMINATION.

By MR. LINDABURY:

Q. Mr. Roberts, you are not a director at the present time, I take it, of the Bridge Company, are you?

A. No, sir; I am not a director of the Bridge Company.

Q. But as a director of the Steel Corporation and a member of the Finance Committee you perhaps have been informed as to the percentage of the business of the country that the Bridge Company is doing in its particular line or lines.

MR. DICKINSON: I except to the form of the question. You had better ask him if he is informed.

MR. LINDABURY: It is only whether he is informed or not.

By MR. LINDABURY:

Q. Do you know, Mr. Roberts?

A. From the——

Q. Just answer yes or no to that.

A. Yes, I do.

Q. What is it?

A. At the present time it is about 32 per cent. of the entire output of the United States of fabricated structures of the kind we fabricate.

Q. Has the output of the United States increased since the American Bridge Company was formed?

A. Very materially.

Q. How much?

A. The output at the time of the formation of the American Bridge Company was about 1,200,000 tons per annum, which has increased until in 1911 the output was about two and one-half million tons.

Q. So that it had more than doubled during that period?

A. Yes.

Q. I take it from some of the records read here that there were a number of important concerns that did not go into the Bridge Company at the time of its formation?

A. There were a number of important and active concerns which did not enter into the American Bridge Company at the time of its formation.

Q. What was the percentage of the business of the country that the American Bridge Company did at the time of its formation in the lines in which it was engaged?

A. In the neighborhood of 38 per cent.—less than 40—I think about 38.

Q. What was the percentage of the business of the country done by the American Bridge Company in its particular lines when it was taken over by the Steel Corporation?

A. It remained about the same as upon its formation, as that time was less than one year after its incorporation.

Q. Did it ever have a monopoly of the business?

A. In no sense of the word. The records will show that it secured less than 50 per cent. of the work which it bid upon in its early days.

MR. DICKINSON: I object to his speaking of the records unless they are produced.

By MR. LINDABURY:

Q. To what records do you refer?

A. The details prepared by the proper officers during the first year, or year and a half, of its existence.

Q. You made some reference to Mr. Swank's statistics. Do they cover this?

A. No. That remark of mine applies to the amount of business which they did as respects the amount which they bid upon, and it was made up from the records of the American Bridge Company.

By MR. DICKINSON:

Q. What time are you talking about?

A. We are talking about the year 1900, and the early part of 1901.

By MR. LINDABURY:

Q. Did you try to get all the plants you could when the American Bridge Company was formed, or did you purposely omit or refuse to take over some of them?

A. The purpose of the formation of the American Bridge Company was simply along the lines of economical shop management, and had no reference whatever to any monopoly or to securing the entire industry of the country. The plants which became a part of the Amer-

ican Bridge Company were believed to be in a position to be operated more economically as a combined whole than as independent units, and the foundation of that company was the securing of a steel works whereby they could obtain to a large extent the control of their raw material for fabrication, the basis of practically all structural contracts being one of time, the time of delivery being the most important factor in practically 90 per cent. of all contracts taken. These independent units found themselves at that time in a very disadvantageous position, due to the fact that the large steel plants were commencing to do their own fabricating, whereby they were enabled to control their rolling mill supplies, and make such deliveries as these independent fabricating shops, having no control over the raw material, could not do.

There was also another reason for it, namely, that contracts were increasing so rapidly in magnitude that as independent units they were unable to secure sufficient working capital to enable them to fabricate these large tonnages.

You can trace from the very beginning of the securing and assembling of their raw material through the designing, fabrication, transportation and erection work, and the increase in their working capital, the reasons for putting together those plants, which were of two principal characters: First, they were partly competitive, I might say by reason of a greater or less similarity of output, and by reason of a common territory into which the transportation rates enabled them to ship the material, and, second, plants absolutely non-competitive, due (a) by reason of an entirely dissimilar output, and (b) by reason of their geographical location.

The whole scheme was one to decrease cost of production and to operate along the lines of what at the present time is termed scientific shop management. As a matter of fact, any advance in prices was not discussed, to my knowledge; nor did any such enhancement ever take place. Competition at all times was extremely severe and the profit on the output decreased from the time of the formation of that company until the present day. A number of concerns were offered to the American Bridge Company at the time of its formation which were declined for various reasons, because they did not seem

to be essential in the rounding out of the proposition that I have referred to.

MR. DICKINSON: That answer is objected to as largely not responsive to the question, and a volunteered dissertation by the witness.

MR. LINDABURY: That is an objection which I think I only can make, and I accept the answer.

By MR. LINDABURY:

Q. Has the number of concerns in the business increased since the American Bridge Company was formed?

A. At the time of the formation of the American Bridge Company my recollection is that there were over 100 plants engaged in a similar line of business. As of May, 1911, that number had increased to about 375.

Q. From what?

A. From something over 100, possibly 120, to 375.

By MR. DICKINSON:

Q. And what time are you speaking of now?

A. In May, 1911, the number was 375. The American Bridge Company, in May, 1911, had 24 plants, I think, and the total number of plants in the country at that date was 400, or within one or two of that number.

Q. You have stated that the production has been increased over 100 per cent?

A. I have the exact figures, if you care to have them.

Q. No; it will do for all purposes, if you will tell us generally, I think.

A. I am substantially correct in what I have said.

Q. In which has been the greater increase—the products of the independents or the American Bridge Company?

A. The products of the Independents. The American Bridge Company has fallen from a percentage of over 40 per cent to a percentage of about 32 per cent.

Q. But its business has increased, nevertheless, has it not?

A. Oh, it has increased from approximately 500,000 and some tons per annum to nearly 800,000 tons per annum.

Q. Have there been important changes in this particular

branch of the industry during the last ten or fifteen years? I refer to the structural steel business.

A. As to the magnitude of contract, yes, a great change; and as to size of individual members, and such things as that, there have been great changes.

Q. Would it be practical to do the business on the scale that it was done fifteen years ago?

A. Impossible. It was a question of life and death to those concerns which combined together in the American Bridge Company.

Q. Why?

A. Because as independent units they had insufficient working capital. They were unable to cope with the great increase in the size of their contracts. You may recall that 20 years ago a few iron or steel beams were used on brick walls. In 1900 a thousand-ton contract for a building was supposed to be an enormous contract. To-day we talk of 15,000 and 20,000 tons in one building. It was simply impossible for those concerns, operating as they were, to continue. Some of them were quite small, some had very little capital. They were very largely carried by the steel-making plants. Their paper was renewed every four months. Sometimes settlements were not made for two or three years after placing an order. It was absolutely necessary for them to do something for their own protection.

Mr. Dickinson: The answer of the witness is excepted to as irrelevant, and especially that part referring to the financial conditions of the several companies, that not being responsive.

Mr. Lindabury: Objection objected to as irrelevant and immaterial.

By Mr. Lindabury:

Q. Take the illustration that occurs to my mind. Take this Woolworth Building going up here in New York. Was there any concern in the business fifteen years ago which could possibly have constructed that building, with the equipment they then had?

A. Yes; I think there were probably two such concerns.

Q. What concerns were they?

A. The Carnegie Steel Company and the Pencoyd Iron Works.

Q. They could have done it?

A. Providing their contract obligations at that time were not such as to prevent the necessary delivery, which is always an important matter.

Q. Were there any other concerns except those two who could have done it?

A. I think not.

Q. The complaint in this case, the petition, rather, refers to the period when the American Bridge Company was formed as one of great consolidations in industrial plants and ventures. You know something about the business of the country generally in that respect. Were there any reasons generally operating, of economic or of other character, to account for that, Mr. Roberts?

A. There were, especially in the iron and steel business at that time.

Q. To some extent you have referred to them, and if you have anything to add on that line I would be glad to have you do it.

A. The substitution of wrought iron by steel had induced an entirely new set of conditions whereby old plants which had been established for the manufacture of wrought iron became practically obsolete, and it was a question of either developing these old plants along the lines of the manufacture of steel or putting them out of existence. The size of the units for the manufacture of wrought iron was small, and it was manifestly impossible that each of the individual units could be developed into a steel-making plant. As a result, a number or group of each of these individual old iron-making units found by combining together they themselves could then establish a steel-making plant which would serve the entire group, and it was from this change in metallurgical process that the original formations which subsequently formed the subsidiary companies of the Steel Corporation took place. Individually they were not large enough to operate in steel, but combined they could do so. That led from this small beginning, and we find the integra-

tion of process which took place. In the day of wrought iron, one man had the ore, another man the blast furnace, another man produced puddled iron. There was no continuity of process whatever; nor did the nature of the art at that time require any such; but as soon as the process of steel making was developed it became one continuous operation, so that from the time the ore was charged in the furnace until the finished product was produced, the temperature of the metal was never reduced to the cooling point. In other words, the success of the process depended upon this continuity and operation with liquid metal, so that all these processes had combined into a whole, and very much larger units were necessary than had been used in the past. I do not believe that any of those consolidations would have ever taken place, had it not been for the advanced state of the iron and steel metallurgical art.

Q. When did this transition take place from the manufacture of iron to the manufacture of steel?

A. Largely during the period from 1893 to 1900, possibly. There were beginnings, of course, in a small way, as early, probably, as 1885, but the large transitions took place, I should say, subsequently to the year 1890.

Q. Was it inconsequential or was it revolutionary?

A. It was revolutionary. In addition to that electricity became a motive power and changed all the operations of the works. Works had to be rebuilt at the expenditure of large additional capital. The old concerns which did not consolidate, as a matter of fact, largely went out of existence.

Q. Is the transportation of the fabricated material used in buildings and bridge work expensive?

A. Necessarily so.

Q. How does it compare with the expense of transporting other steel products?

A. Many of the members are of such a shape that it is impossible to get a full car load on one car; consequently it is necessary to pay for the full carload rate, although you are shipping below the minimum requirement of the carload. For instance, while you may have a beam weighing five tons, you may have to pay a ten-ton rate for delivery.

Q. Did this limit the competition between the concerns located at different points?

A. Very materially. Bridge structural work was very much more of a local character, outside of a few concerns, than what we know as the products of the rolling mills. The products of the rolling mills would require very much longer transportation than finished fabricated material. For instance, the rate on that class of material would be lower per ton as a rule than on fabricated material.

Q. Was the organization of the American Bridge Company had at all with reference to the location of the plants which it acquired?

A. Yes. The plants were largely scattered throughout the country serving the eastern markets, central west and also some of the northwestern points and western points.

Q. And what advantage, if any, accrued to the company on this account?

A. Geographical location was of great benefit, of course; almost essential to the success of the enterprise contemplated.

Q. Was it more advantageous to the company than to have plants in these different localities around the United States than to have one large centrally located plant?

A. Yes, sir; it would not have been possible to have accomplished the same purpose with one plant in any one location as could have been accomplished by having individual units located in various territories tied together by general methods of economy. You will find that in all the territories in which shops of the American Bridge Company exist, there were also very large independent shops, so that competition existed at all those local points.

Q. Coming down to the organization of the Steel Corporation, I think you said you had a talk with Robert Bacon, in which he asked you to become a director of the Steel Corporation. Am I right about that?

A. Yes.

Q. Perhaps that had better be read.

(The question was read by the stenographer as follows:)

"Q. Coming down to the organization of the Steel Cor-

poration, I think you said you had a talk with Robert Bacon, in which he asked you to become a director of the Steel Corporation. Am I right about that?"

A. I did.

Q. Did you have any talk with any other member of Mr. Morgan's firm about the disposition of your own stock or the terms that J. P. Morgan & Company, on behalf of the Steel Corporation, were proposing or were about to propose to the stockholders of the Bridge Company?

A. Individually, but without any connection whatever as an officer of the American Bridge Company, in which capacity I understood this morning that my testimony was given. I had a talk about that time with Mr. Charles Steele of the firm of J. P. Morgan & Company, who stated to me that it was suggested or had been suggested that an exchange of the stock of the American Bridge Company be made for the stock of the United States Steel Corporation, if I remember it correctly, in the proportion of 110 of preferred Corporation for 100 preferred Bridge Company stock, and 105 of the Corporation common stock for 100 common stock of the Bridge Company; and generally asked my views in regard to it as a stockholder. I told him that individually I considered that it was a fair proposition, and that I would be willing to exchange my stock on that basis, but this was not in connection with any position which I then held in the Bridge Company.

Q. I understand it was to you as an individual stockholder?

A. Exactly.

Q. Were you a substantial owner of the stock of the Bridge Company? I think Judge Dickinson asked you that this morning, but my recollection is that the answer did not cover it.

A. I held individually one-third of the stock received in settlement for the securities of the A. & P. Roberts Company, and I held as one of two trustees another one-third of the same securities. It was a substantial amount of the stock of the American Bridge Company.

Q. How long was this conversation with Mr. Steele before the Morgan circular went out?

A. Quite a short time; not very long; but events were

shaping themselves very rapidly in those days. But it was within a reasonable time; I could not say whether it was within a few days, but the circular was issued a short time thereafter. I do not know as to what views were expressed, but my interview was prior to the date of the issuing of the circular.

Q. You understood the inquiry of you this morning, I take it, to relate to your capacity as an officer of the Bridge Company?

A. Entirely so. I understood the question to be whether any corporate action by the Bridge Company had been taken by its directors or officers in regard to an exchange of stocks of the Bridge Company for those of the Steel Corporation.

MR. DICKINSON: What inquiry do you mean, Mr. Lindabury? Will you be more specific in that? I inquired a good deal of him this morning about various things. How broad is that?

MR. LINDABURY: The inquiry with respect to the action taken by him before the Morgan circular was sent out in connection with the proposed purchase of the Bridge Company's stock.

MR. DICKINSON: It relates simply to that, does it?

MR. LINDABURY: Yes.

MR. DICKINSON: Very well.

MR. LINDABURY: That is all.

REDIRECT EXAMINATION.

By MR. DICKINSON:

Q. You say, Mr. Roberts, that in 1911 the American Bridge Company made 32 per cent of the fabricated structural work of the entire United States?

A. About 32 per cent, I think.

Q. Does that include bridge work?

A. It does.

Q. And such work as is used in large buildings?

A. It does.

Q. Mr. Roberts, how do you know that fact?

MR. LINDABURY: You proved 33 per cent the other day. There does not seem to be much difference between us.

MR. DICKINSON: I do not think I did.

MR. LINDABURY: Your witness Dean said 33 per cent.

MR. DICKINSON: You brought that out, but I think I explained it in redirect. I do not think it was correct at all.

MR. LINDABURY: Oh, do you not?

MR. DICKINSON: Not at all.

MR. LINDABURY: He said 33 per cent, did he not, on cross-examination?

MR. DICKINSON: He said 33 per cent of the entire statistics reported.

MR. LINDABURY: That is right. Some were not competitors in interstate commerce or something?

MR. DICKINSON: Yes.

MR. LINDABURY: I see what you mean now.

By MR. DICKINSON:

Q. Read the question I asked Mr. Roberts.

(The question was read by the stenographer as follows:)

"Q. Mr. Roberts, how do you know that fact?"

A. From statistics I have seen and from capacities of plants in the country and by work estimated upon, taken and lost, by the American Bridge Company.

Q. What statistics did you see upon which you predicated that answer?

A. Statistics prepared by the American Bridge Company.

Q. Where are they?

A. I think I have them here.

Q. Will you produce them?

A. If you want them.

Q. Yes, I would like to have them.

A. Shall I produce them and let you have them?

Q. If you please.

A. I am very sorry, but I have been given the wrong envelope this morning. The envelope containing the data you want is not here.

Q. Can you send for it?

A. I can produce it. It is in Philadelphia.

Q. Can you telegraph for it and have it here to-morrow morning?

A. I am afraid I cannot have it here by that time. It is in another envelope.

Q. Can you get it here by day after tomorrow?

A. Yes.

Q. Then we will go on now with other matters.

You say your answer was based partly on the statistics which you are going to produce?

A. It was based on statistics prepared by the American Iron and Steel Association and by various peoples in the American Bridge Company.

Q. Was that part of your answer where you said that of the entire fabricated material in the United States in 1911 only 32 per cent was made by the American Bridge Company based entirely on that?

A. I think the statistics on which that was based were entirely those of the American Iron and Steel Association and of the American Bridge Company.

Q. And that answer was based on those statistics?

A. Yes.

Q. And not upon any personal information of yours, or personal knowledge?

A. I have no personal information other than from statistics which have been furnished me.

Q. You stated that there were important concerns which did not go into the American Bridge Company at the time of its formation. Please enumerate the concerns which did not go in, which the Pencoyd Company at that time had been meeting in competition in interstate commerce in bridge structures and in structural material for buildings?

A. One very active one that I recall is the Phoenix Iron Company; another the Pennsylvania Steel Company; another the Carnegie Steel Company, in its fabricating plants for buildings. For the complete list I would refer you to the publications of the American Iron and Steel Association.

Q. The Association's publications would not explain which of those companies were competitors of your company at that time in interstate commerce, would they?

A. By referring to the publication I could refresh my memory as to a complete list of those which did not go in and whether they were competitors of the Pencoyd Iron Works

or not. Offhand I am not prepared at this time to give you a complete list of them.

By MR. LINDABURY:

Q. Haven't you that publication here?

A. I have.

By MR. DICKINSON:

Q. What year is that?

A. 1903.

Q. I am asking you about 1900.

A. I am only refreshing my recollection from it, as to recalling the names.

MR. LINDABURY: You do not mind his looking at the names, do you, so as to refresh his recollection?

MR. DICKINSON: I mind it just now; yes.

By MR. DICKINSON:

Q. How about the McClintic Marshall Company?

A. The McClintic Marshall Company started about 1900, I think. Prior to that time they may have operated in a small way, but they became a factor about the time of the formation of the American Bridge Company.

Q. And were a competitor of the Pencoyd?

A. Not prior to the formation of the American Bridge Company.

Q. I mean at the time of its formation?

A. They commenced about at that time. They leased a work at Pottstown, Pennsylvania, known as the Cofrode & Saylor Works.

Q. You mentioned the Phoenix Company?

A. And the Phoenix Company.

Q. The Pennsylvania Steel Company?

A. And the Pennsylvania Steel Company.

Q. And the McClintic Marshall Company, with the explanation you have given.

A. Exactly.

Q. And the Carnegie Steel Company?

A. In so far as fabricating building work was concerned.

Q. Can you now from memory name any others who at that time were competitors of the Pencoyd Works in bridge and structural work, in interstate commerce?

A. Prior to the——

Q. At the time you went into the American Bridge Company?

A. Prior to that time?

Q. Well, within a year, say, prior to that time?

A. The King Bridge Company at Cleveland; there was a concern at Baltimore, whose name I do not recall; there was the Roanoke Bridge Works, at Roanoke, Virginia.

Q. What did that concern make?

A. Railroad bridges.

Q. What was the capacity of that concern?

A. I do not recall. There were a number of works scattered through the Middle West; I really do not recall the names of them now, because you must bear in mind that this competition on the part of a number of these outside concerns was intermittent. For instance, if we entered into their territory we would come in competition with them. We might not enter into that territory again for some months. There were other concerns which were constantly competitive, just as I have enumerated, the Phoenix Company and the Pennsylvania Company, both of which were located in the immediate territory in which the Pencoyd Iron Works were located.

Q. They were constant competitors, were they?

A. They were constant competitors.

Q. Including those which were constant competitors, and those which were intermittent or remittent, have you named all now that you can name from memory who competed with you at that time in that work?

A. The Passaic Rolling Mill Company of Paterson, New Jersey; the Boston Bridge Works of Boston, Massachusetts——

Q. What was the capacity of the Boston Bridge Works?

A. I do not recall offhand. For full information in reference to these matters I would refer you to the publications of the American Iron & Steel Association.

Q. Was there any publication for the year 1900?

A. There was not.

Q. Was there any for the year 1899?

A. The first publication, I believe, of a complete list of the bridge works, independent of steel making establishments, will be found in the supplement to the Iron & Steel Works Directory for the year 1903.

Q. I will ask you whether or not that does not include some of those concerns that had started in business after the middle of the year 1900?

A. It would include any which had started in business up to January 1st, 1903.

Q. Have you undertaken to go over those and tabulate them, and the percentage of their product, and then exclude them in your estimate for the year 1900?

A. My estimate for the year 1900 was not based upon statistics for the year 1903?

Q. What was it based on?

A. It was based on the list of plants which had been prepared for the year 1900. Where that list came from I am not at this time prepared to say.

Q. Did you prepare it?

A. I did not.

Q. Do you know what the output of the various concerns on that list was?

A. I think the total output on that list was something like over a million tons.

Q. Where is that list?

A. I do not recall whether I have seen any list in detail giving the names as set forth in this supplement to the directory prior to that time. It may be that the list was prepared by taking the names from this book of the concerns which were known to be in existence during the year 1900.

Q. But you did not prepare that?

A. I did not.

Q. You do not know how it was prepared?

A. I do not.

Q. You have no independent memory as to the outputs and percentages?

A. I have not.

Q. When you stated the percentage of the American

Bridge Company for the year 1900, you based it upon that table which you speak of?

A. Which table?

Q. Have you not just spoken of a table or list?

A. No. I did not say it was based on that. I say it may have been based on that as a basis. In other words, the names may have been taken from this book of these concerns which were actually in existence in 1900, or they may not have been.

Q. Whether it was or not you do not know?

A. I do not, no.

Q. When you state what the percentage was produced by the American Bridge Company in 1900, what do you base that statement on?

A. Upon statistics which were prepared as of the year 1900, but how they were arrived at I am not prepared, offhand, to state.

Q. And whether they are correct or not, you do not know?

A. To my best knowledge and belief, they are correct, and I think among my statistics, the statistics which I have, there are some matters which bear on this subject.

Q. You say to the best of your knowledge and belief they are correct, and you also say, I believe, that you did not prepare them?

A. I have examined them.

Q. You examined them, but did you compare them with the sources from which they came?

A. Yes, to a considerable extent I checked them up, separating the independents, that is the independent fabricators, from those which were adjuncts of the steel works, and I formed the opinion that the figures I had were correct.

Q. When did you check them up?

A. Probably a year ago.

Q. Have you any memory of what you excluded from them as being non-competitive, and what you counted as being competitive?

A. I did not check them up as competitive or non-competitive.

Q. How did you check them up?

A. I checked them up by their outputs, the capacities of their shops, and what relationship the output of the American Bridge Company bore to the output of other concerns in the same line of business.

Q. Where is that paper?

A. The statistics or the result of those tabulations I have, are, as I say, in Philadelphia.

Q. Oh, I thought that was the one for the year 1903?

A. No; it is as of the year 1900.

Q. Then you have two. Have you one for the year 1900 and the other for the year 1911?

A. That is right. I have one for the year of the formation of the corporation, which is the year 1901, and I have also the tabulation as of the year 1911.

Q. You will produce both of those, then?

A. I will produce both of those.

Q. I show you a contract with the Carnegie Company, which you said had been made with that company, and I call attention to a clause as follows:

"Should the Bridge Company not make two-thirds of all the bridges, viaducts, elevated railroads, station sheds, and similar works erected in the United States, then shall the Steel Company, if it so elects, have the full right, privilege and option of engaging again in the bridge business."

Did you at that time have a capacity to do two-thirds of all the work on bridges, elevated railroads and viaducts?

A. No sir; never did have.

Q. And yet you made this contract providing for that?

A. I think that is a contract of more interest to lawyers than to the principals.

Q. Made in the interest of the lawyers, then, you think?

A. I think so. You can drive a horse and cart through it anywhere.

Q. Then I presume no lawyer wrote it?

A. Well, it depends on the way you look at it.

Q. You stated that in May, 1911, there were 375 concerns in the United States making the same character of work made by the American Bridge Company, did you not?

A. That is correct.

Q. And those 375 concerns are shown by the American Iron & Steel Directory, are they?

A. Those 375 concerns are named and their capacities given, and the statistics are prepared by the agents of the American Bridge Company.

Q. Would they appear in the directory for 1911 or 1912?

A. No; it is a statement prepared by the selling agents of the American Bridge Company giving a list of names of their competitors, where located, and the annual capacity of their shops.

Q. As of May, 1911?

A. As of May, 1911.

Q. You say there were important changes as to the magnitude of contracts which had come about within the last ten or fifteen years. State whether your competitors now in the business are able to take any of those contracts, or the larger ones, or whether the American Bridge Company alone is able to handle them?

A. They are taken both by the American Bridge Company and by their competitors, or by at least some of their competitors.

Q. Take the competitors that we have just mentioned. Take the Phoenix Iron Company. Are they able to handle them?

A. They had a contract for the largest bridge structure which has ever been contracted for, namely, the Quebec Bridge, which fell down.

Q. Are they able to take the contracts of the magnitude that you speak of here?

A. They are.

Q. How about the Pennsylvania Steel Company?

A. The Pennsylvania Steel Company are in a position to take a contract of any magnitude. They have had most of the contracts for the bridges across the East River in New York.

Q. How about the McClintic Marshall Company?

A. They are fully able to take contracts of magnitude. Their banking facilities are such as to enable them to do it.

Q. These concerns were all competitors of yours when the American Bridge Company was formed, were they?

A. They were and were not included in the—

Q. (Interposing). And have continued to be competitors and are able to take care of the same character of contract that you are?

MR. REED: You do not mean the McClintic Marshall Company, do you?

THE WITNESS: They were formed about the time of the formation of the American Bridge Company.

MR. DICKINSON: A year before, I think.

By MR. DICKINSON:

Q. You spoke of concerns going into the American Bridge Company that were individually not large enough to bid upon the contracts of the character that we have been speaking of, but combined could do so. Was not the Pencoyd Works able to bid upon contracts of that character, without any combination?

A. The Pencoyd Works did not go into the combination in the same manner nor were they interested at all to the same extent as the other concerns. The Pencoyd Iron Works were purchased by Mr. Ladd for the purpose of furnishing a steel works to these independent fabricating shops, and they did not enter into that agreement on the same terms, nor did they take any part in the negotiations which led up to the formation of that company.

Q. Now, will you answer whether or not the Pencoyd Works was at that time able to take the largest contract, a contract of the largest character of contracts that were let at that time, in bridge construction work?

A. It was and did.

Q. How about the Carnegie Steel Company?

A. I think they were fully capable.

Q. How about the Lassig Bridge & Iron Works?

A. The character of work they did was on a somewhat more limited scale. As to their financial ability, I do not think their resources were as great as the companies you have already named.

Q. Were they competitors of yours?

A. They were competitors of ours on certain lines of business.

Q. And meeting you in competition on those lines of business at that time, were they?

A. On those lines of business, yes. They were also customers.

MR. LINDABURY: Which company was this?

THE WITNESS: The Lassig Company. It was a customer as well as a partial competitor of the Pencoyd Iron Works.

By MR. DICKINSON:

Q. Take the Edge Moor Bridge Works? What sort of a concern was that?

A. They were a fabricating shop largely owned by William Sellers of Philadelphia.

Q. Were they competitors of yours?

A. To a limited extent, yes.

Q. What do you mean by to a limited extent?

A. As I explained previously, the competition between these various concerns was of a partial character. They might come in competition on a certain piece of work in common territory, and not be competitors outside that territory; and some of them built certain classes of work. For instance, the Edge Moor Work was confined practically to railroad bridges. They fabricated no buildings. They would come in competition with the Pencoyd Works on certain railroad bridge work.

Q. Was the Carnegie Company compelled to go into an organization of this sort on account of its inability to go on financially, on account of the character of its work and its inability to compete with other people in that line of business?

A. The Carnegie Company owned and operated the Keystone Bridge Works, which had no physical connection whatever with the balance of their plants. It was independent, independently located; it had not been very profitable; in fact, it had been losing money for some time, simply for the want of proper organization and attention.

Q. For the want of attention?

A. Their entire energy was concentrated upon the production of rolled steel, and the Keystone Bridge Works was left to run as best they could.

Q. The Carnegie Company financially was able to develop it and run it?

A. Oh, perfectly. It was want of interest and not want of ability.

Q. You do not mean to say that was put in because of inability or on account of not having any financial backing, or on account of any danger of bankruptcy?

A. No; it was put in, I think as a basis to obtain the contract you read a little while ago, to secure 51 per cent of the rolled material and 75 per cent of the plates of the new corporation.

MR. LINDABURY: I call attention to the fact that our hour for adjournment has arrived.

MR. DICKINSON: I think we had better let Mr. Roberts go, now, until day after to-morrow when he will have the papers that he has been requested to bring. If Friday will suit as well, he may return Friday.

MR. LINDABURY: Very well.

(Whereupon, at 4 o'clock p. m., an adjournment was taken until to-morrow, Wednesday, May 22, 1912, at 10:15 o'clock a. m.)

ELEVENTH DAY.

Room 720 Custom House,
New York, N. Y.,

Wednesday, May 22, 1912.

The hearing was resumed at 10:15 o'clock a. m. before SPECAL EXAMINER HENRY P. BROWN.

Appearances the same as heretofore noted.

MR. LINDABURY: I understand that Mr. Roberts desires to make a correction in his testimony of yesterday.

MR. ROBERTS: I should like to have that privilege for a moment.

MR. DICKINSON: Very well. Just dictate your correction to the stenographer.

PERCIVAL ROBERTS JR.,

the witness under examination when the adjournment was taken, resumed the stand for the purpose of making a correction in his testimony.

THE WITNESS: I have with me this morning copies of two sheets of statistics—

MR. DICKINSON: I thought Mr. Roberts just wanted to correct a statement.

MR. LINDABURY: Just make the correction and, if necessary, you may explain it later.

MR. DICKINSON: He can make any explanation afterwards, when you take him up.

MR. LINDABURY: Yes. Just make the correction, now.

THE WITNESS: In answer to a question yesterday as to the percentage of the capacity of the American Bridge Company at the time of its formation as compared with the capacity of other concerns engaged in the same character of business I stated that it was 38 per cent. I had in mind statistics which I had seen on that subject, the actual date of which I find to be as of February, 1904, expressing the conditions as of the close of the year 1903.

MR. DICKINSON: What correction do you want to make?

THE WITNESS: I wish to substitute that for my former answer.

MR. DICKINSON: You wish to substitute what?

THE WITNESS: The answer I have just given.

MR. LINDABURY: That is, that that was the percentage at that date?

THE WITNESS: The 38 per cent. represents conditions as of the year 1903. I did not give any exact year yesterday, but I stated that it was as of the time of the formation of the American Bridge Company.

MR. SEVERANCE: Which was 1900?

THE WITNESS: Which was about the middle of the year 1900.

MR. DICKINSON: Will you leave that paper with me?

THE WITNESS: Yes.

MR. DICKINSON: I will take it up with you on Friday.

Have you given any percentage as of the time the company was formed?

THE WITNESS: I have not.

By MR. LINDABURY:

Q. Are you or are you not able to do it now?

A. I am not this morning.

Q. I will ask you to look it up between now and Friday if you will, please.

A. Yesterday afternoon, after I had given 38 per cent. I was not clear as to the date. I knew it was of record, and I thought it applied to the year 1900.

Q. Yes.

A. But the actual date would be as of the year 1903.

Q. If you can get the data for 1900 before Friday, I should be glad to have you do so.

A. I shall try to do so.

Q. This paper which I have in my hand is the one to which you just referred in your testimony a moment ago?

A. Yes. I have the original of that in Philadelphia. It is among the statistics which I promised to produce on Friday.

Q. But this is a copy of it?

A. That is a copy of the statistics which were prepared about a year ago.

MR. DICKINSON: That is all, Mr. Roberts, for the present.

C. D. MARSHALL,

called as a witness in behalf of the United States, being first duly sworn, testified as follows:

DIRECT EXAMINATION.

By MR. DICKINSON:

Q. Your name is C. D. Marshall?
A. Yes, sir.
Q. Where do you live, Mr. Marshall?
A. Pittsburg.
Q. How long have you lived in Pittsburg?
A. All my life.
Q. What is your age?
A. Forty-five.
Q. In what business are you now engaged?
A. In the structural steel and bridge business.
Q. With what concern?
A. The McClintic Marshall Construction Company.
Q. Are you the Marshall in that company?
A. Yes, sir.
Q. Is that a corporation or a partnership?
A. It is a corporation.
Q. Are you an officer in that corporation?
A. I am the president of the company.
Q. When was that corporation formed?
A. In 1900.
Q. Before that what was your business?
A. I was with the Shiffler Bridge Company.
Q. Where was that located?
A. In Pittsburg.
Q. When did you leave the Shiffler Bridge Company?
A. February 1, 1900.

Q. State whether or not the Shiffler Bridge Company was taken over by the American Bridge Company.

A. It was.

Q. You left shortly prior to that time?

A. Shortly after that time.

Q. Shortly after that time?

A. Yes.

Q. Did you or did you not go into business before the formation of the American Bridge Company?

A. We did, yes.

Q. Under what firm name?

A. The McClintic Marshall Construction Company?

Q. The same company with which you are now connected?

A. Yes.

Q. How long had you been with the Shiffler Bridge Company?

A. Since the fall of 1888.

Q. Then, from the fall of 1888 up to 1900?

A. Up to 1900; yes, sir.

Q. State, generally, in what business the Shiffler Company was engaged during that time.

A. The manufacture and erection of steel bridges, buildings, and miscellaneous structural steel work.

Q. In what capacities did you serve with that company?

A. I started there as draughtsman and ended up as chief engineer and secretary of the company.

Q. State whether or not you had a general acquaintance with the character of the business in which they were engaged, and with the people who were in like business, competing with them.

A. I thought I was pretty well posted at the time.

Q. Was that or not a part of your business in connection with them?

A. Yes, sir; I had charge of the contracting business.

Q. Since you left them and have been with the McClintic Marshall Company, state what acquaintance you have had with the business in which that firm is engaged and with those who are in competition and have been in competition with them up to the present time.

A. Ever since the McClintic Marshall Construction Com-

pany was organized, I have been directly interested in the management of the company from beginning to end.

Q. Did that involve a knowledge of sales?

A. Yes, sir.

Q. And of the people who were competing with them in sales for like material?

A. Yes.

Q. Generally?

A. Yes.

Q. Have you been generally informed then throughout that period of the business carried on by those companies and those who are competing with them?

A. I think I have been.

Q. That is from along about 1890 up to the present time?

A. Yes, sir.

Q. What property did the McClintic Marshall Construction Company first acquire?

A. The plant at Pottstown.

Q. Pottstown, Pennsylvania?

A. Yes, sir.

Q. At that time what was the capacity of that plant?

A. It was a little less than 18,000 tons a year.

Q. And what kind of material did that cover?

A. Buildings and bridges and general structural steel work.

Q. In what business was the Shiffler Bridge Company engaged at the time it went into the American Bridge Company?

A. The Shiffler Bridge Company?

Q. Yes.

A. The manufacturing of bridges and buildings and general structural steel work.

Q. After you acquired the works at Pottstown, did or did not your company extend its plant?

A. Yes, sir.

Q. Where?

A. At Pittsburg.

Q. And what was the capacity of that extension?

A. Well, it has increased from time to time.

Q. Your whole capacity at the time of the formation of

the American Bridge Company was, as I understand you to say, about 18,000 tons?

A. Yes, sir.

Q. Mr. Marshall, I would like you to describe now the process of fabrication pursued by the Shiffler Bridge Company and your Company and other companies that were engaged in like business and in competition in interstate commerce, that is to say, what they produced and what was the process through which it went, and what they sold in interstate commerce in competition with each other.

MR. LINDABURY: Are you asking about companies that fabricated only?

MR. SEVERANCE: That is what he asked for.

MR. LINDABURY: Some fabricated only, you know.

MR. DICKINSON: Yes. Read the question.

(Question was read by the stenographer as above recorded.)

A. They purchased from the rolling mills plates, bars, and shapes, and did certain work on this material, fabricating it into the parts of a finished structure, which afterwards were shipped to the point of location and erected into buildings and miscellaneous structural steel works.

By MR. DICKINSON:

Q. You mentioned plates, did you?

A. Yes, sir.

Q. Did you mention angles?

A. Well, angles are considered a shape.

Q. And beams?

A. Beams.

Q. What is an angle?

A. An angle in our business is any piece of iron that is shaped to contain an angle.

Q. What kind of machinery did those companies that do the kind of fabricating that you have described have?

A. It is quite a variety of machinery in the way of punches, reamers, riveting machines, planers; practically all sorts of tools for shaping steel work.

Q. State whether or not the plant doing fabricating work

is the same character of plant as that which makes the structural material?

A. Practically the same.

Q. Read the question, please.

(The question was read by the stenographer as above recorded.)

A. You mean the material which we purchased?

Q. Yes.

A. Oh, entirely different.

Q. What kind of concerns make the material that you purchased?

A. Rolling mills principally; steel works.

Q. That material is bought from the rolling mills, and then is fabricated in the way that you have explained by these concerns that you have mentioned who are in the bridge building business and the structural business?

A. Yes, sir.

Q. State whether or not, in the mills as they were constructed and conducted at that time when the American Bridge Company was formed, that was a continuous work; that is, making the material and fabricating it?

A. No, sir.

Q. How is it now?

A. Just the same now as it was then.

Q. It is not a continuous work?

A. It is not a continuous work.

Q. Is the material taken right hot from the process in which it is made and then worked up under this fabricating process of which you speak?

A. The fabricating process is an entirely separate and distinct operation.

Q. From making the structural material?

A. It cannot be connected up in any way with the rolling mill.

Q. Are you or are you not generally familiar now, or were you generally familiar at the time of the formation of the American Bridge Company with the names of the concerns that went into the American Bridge Company?

A. I recall a number of them.

Q. Mr. Marshall, state the names of those that went into

the American Bridge Company who were the largest producers in their lines at that time?

A. My opinion of the relative sizes would be as follows: The Pencoyd Iron Works.

Q. That is the A. & P. Roberts Company?

A. Yes, sir.

Q. Was that or was it not the largest?

A. That is the way I would have considered it; and the Keystone Bridge Works.

Q. Where was that?

A. That was in Pittsburg. And next I would say the Edge Moor Bridge Works, and probably fourth the Lassig Bridge Company, of Chicago.

Q. Mr. Marshall, those companies, according to your recollection, you say, were the four largest companies that went into the American Bridge Company?

A. Yes, sir.

Q. State whether or not at that time there were any concerns left outside of those that went into the American Bridge Company which were as large as any of those you have named?

A. Well, I always considered those four larger than any that were left outside.

Q. What did the Pencoyd Iron Works produce and sell?

A. The Pencoyd Iron Works?

Q. Yes.

A. I think they had a rolling mill in connection with their bridge shop. Their product, my recollection is, was largely bridge work.

Q. I mean of the kind of work in which you were competitors?

A. Bridge work and building work.

Q. What kind of bridges?

A. Railroad bridges principally.

Q. Any of the larger class of highway bridges or not?

A. Well, if the tonnage was sufficiently large in a highway bridge I think they would go after it.

Q. How about steel buildings?

A. I think they only sought steel buildings that had large tonnage.

Q. What, approximately, was the annual capacity at that time of the Pencoyd works?

A. It would be purely a guess on my part. I should think——

MR. SEVERANCE: Never mind. We object to any guess.

MR. DICKINSON: I will withdraw the question, then. I do not want a guess about it.

By MR. DICKINSON:

Q. What did the Lassig Bridge & Iron Works of Chicago produce of the things which you have mentioned as being sold in competition with the Shiffler Company and the McClintic, Marshall Company?

A. The Lassig's output was largely railroad bridge work.

Q. Did they also erect steel buildings.

A. On occasions.

Q. They did from time to time?

A. Yes.

MR. DICKINSON: Mr. Lindabury, I want to offer in evidence from the American Iron & Steel Works of the United States for 1901, pages 58 to 62, inclusive, so far as it comes under the head of "The American Bridge Company."

MR. LINDABURY: Do you mean a book of that title?

MR. DICKINSON: I want to offer those pages. I do not want to put in the whole book.

MR. LINDABURY: You refer to a book having the title you have just mentioned, do you?

MR. DICKINSON: It is the Iron & Steel Works of the United States, the same book, the character of which you proved the other day.

MR. SEVERANCE: Is that Mr. Swank's book?

MR. DICKINSON: Yes.

MR. LINDABURY: I do not suppose that, under objection, you could put in matter of this kind as substantive proof, but it is convenient, and we think that it would be better to agree to it, subject to correction, assuming, of course, that when we come to put in our case you will give similar consent.

MR. DICKINSON: Yes, sir. I would not offer part of a

publication upon its reputation and then object to your doing the same thing.

MR. LINDABURY: This does not contain mere statistics, you know. It goes beyond that. However, this case will be long enough, and I think we ought to in this way cover what ever we can on both sides.

MR. DICKINSON: You have already proved the character of the work.

MR. LINDABURY: That may be, and of course the court would admit a work of this kind in so far as it gives mere statistics of sales, and so forth, but this goes much further than that. Nevertheless, what it shows is probably true, and probably, in course of time, could be proven by you. We think it had better go in, subject to correction, and not raise any question about it.

MR. DICKINSON: That may go in with the understanding that if you want to put in any pages of this publication or any other work of a similar character, it may be done.

MR. LINDABURY: We do not ask for a stipulation.

MR. DICKINSON: I am speaking of this particular work.

MR. LINDABURY: We are entirely content to rely upon your extending the same courtesy, without any agreement.

MR. DICKINSON: Of course, we are now speaking only of this book.

MR. LINDABURY: I understand.

(Pages 58 to 62, inclusive, under the heading "The American Bridge Company," of the book entitled "American Iron & Steel Works of the United States for 1901," were thereupon offered in evidence and marked "Government's Exhibit, Witness Marshall, No. 88, May 22, 1912.")

By MR. DICKINSON:

Q. Mr. Marshall, state whether or not in constructing railroad and highway bridges and steel bridges, the Pencoyd Iron Works of the A. & P. Roberts Company were, at the time they were taken into the American Bridge Company, engaged in such work and such sales outside of the State of Pennsylvania as well as in the State of Pennsylvania.

A. They were.

Q. How general was their territory?

A. I think their territory covered the entire United States.

Q. The Lassig Bridge & Iron Works, you said, made railroad bridges and erected some steel buildings?

A. Yes, sir.

Q. What was their territory?

A. It was largely Chicago and the West.

Q. Outside of the State of Illinois?

A. Yes, sir.

Q. Did they or did they not come in competition with the Pencoyd Works in that class of work?

MR. LINDABURY: If the witness knows.

MR. DICKINSON: I am asking him if he knows. I said: "Did they or did they not?"

MR. LINDABURY: I do not know how the witness can know that.

MR. DICKINSON: That will be for you to bring out.

By MR. DICKINSON:

Q. Do you know? Were you engaged in the same line of work?

A. Yes, sir; I would say, yes.

Q. Did you or did you not meet them in competition in that character of work?

A. Yes, sir.

Q. Both of those companies?

A. Yes.

Q. You knew they were engaged in that class of business?

A. Yes, sir.

Q. And outside of the State of Illinois?

A. Yes, sir.

Q. As well as in it?

A. Yes, sir.

Q. What did the Shiffler Bridge Works make?

A. Bridges, buildings and miscellaneous structural steel works.

Q. They were in Pennsylvania, were they?

A. Yes, sir.

Q. Were they engaged in selling such material and constructing such work outside of the State of Pennsylvania?

A. Yes, sir.

Q. State whether or not, if you know, they were competitors at that time with these other concerns which I have named.

A. They were.

Q. What did the Keystone Bridge Works of Pittsburg make?

A. The same class of material.

Q. In what territory did the Keystone Bridge Works sell?

A. All over the United States.

Q. In what territory did the Shiffler Bridge Works sell?

A. All of the United States.

Q. What did the American Bridge Works of Chicago make?

A. I am not familiar with the product of the American Bridge Works of Chicago.

Q. We will pass that company, then, and take the Elmira Bridge Works, Elmira, New York. What did they make?

A. Their product was largely bridge work.

Q. Did they make any steel buildings?

A. I think they did, in a small way.

Q. In what territory did they build bridges and sell bridge material?

A. Largely in the East.

Q. Outside of sales in the City of New York?

A. Oh, yes.

Q. State whether or not in the same territory as that in which these other concerns that made bridges, which we have just mentioned, sold.

A. The same territory.

Q. And were they competitors in interstate business?

A. Yes.

MR. LINDABURY: This is all of your own knowledge, is it, Mr. Marshall?

THE WITNESS: Yes, sir.

MR. LINDABURY: All right, then.

By Mr. Dickinson:

Q. The Toledo Bridge Works, of Toledo, Ohio. What did they do?

A. They built bridges and buildings.

Q. In what territory?

A. Largely in the west.

Q. West of Ohio?

A. West of Ohio.

Q. Did they or not erect any steel buildings?

A. They did.

Q. Were they competitors of your company?

A. They were.

Q. In the territory in which they sold?

A. Yes.

Q. And of these other companies?

A. Yes, sir.

Q. The Edge Moor Bridge Works, of Edge Moor, Delaware. What did they sell?

A. Their work was largely bridge work.

Q. Railroad and highway bridge work or not?

A. Mostly railroad bridge work.

Q. Did they erect any steel buildings?

A. They did.

Q. In what territory?

A. Practically any territory of the United States.

Q. Did you meet them in competition outside the State of Delaware?

A. Yes.

Q. In the same territory as that in which these other companies were selling?

A. Yes, sir.

Q. The same character of material?

Mr. Severance: When you say "you," do you mean McClintic Marshall, or the Shiffler Bridge Company?

Mr. Dickinson: He is referring to the Shiffler Company. Instead of "you" say "Shiffler," just make my question read that way.

Mr. Severance: It is better to let the witness do the testifying.

THE WITNESS: Let me make myself straight. I understand that I am testifying both as to the Shiffler Company and McClintic Marshall Company, and that my answer applies to which ever one I was connected with during the time to which this question refers.

MR. SEVERANCE: But it did not refer to any time.

MR. DICKINSON: Yes, I beg your pardon; all these questions refer to the time these companies were taken into the American Bridge Company.

MR. SEVERANCE: But he did not represent both of those companies at that time.

MR. DICKINSON: Wait a minute. At the time these concerns were taken into the American Bridge Company, you were with the McClintic Marshall Company?

THE WITNESS: Yes.

MR. DICKINSON: State whether or not at that time they were competitors with each other in the several products and in the territory that you have hitherto described in your answers.

MR. LINDABURY: Every one of these? You are asking as to all of these?

MR. DICKINSON: Severally, in respect to his answers as to the different companies.

MR. LINDABURY: But he said some of them sold in the east and others only in the west. Those that sold in the West could not have been competitors in Delaware, then.

MR. DICKINSON: I am simply trying to correct my expression in the question I put, when I said, "you," instead of naming the company or companies.

MR. LINDABURY: I did not understand exactly as to the time he was with McClintic Marshall Company.

MR. DICKINSON: He was with the Shiffler Bridge Company from 1888 up to about three months before the American Bridge Company was formed.

MR. LINDABURY: I had not heard that.

By MR. DICKINSON:

Q. About three months before the American Bridge Company was formed the McClintic Marshall Company was

formed and you have been with that concern ever since. Is that correct?

A. That is correct; yes, sir.

Q. There seems to be some misunderstanding between counsel as to your answers to certain interrogatories, when I said "you," instead of designating the company with which you were associated at the time. Now I will ask you to state whether or not prior to your going with the McClintic Marshall Company, and during the year next preceding that, these concerns which you have mentioned by name here as having been taken over by the American Bridge Company, and as manufacturing the material which you have hitherto specified, and as having sold in the territory you have hitherto specified, were in competition with the Shiffler Company and with each other in the various products which you have named?

A. They were.

Q. After you left the Shiffler Bridge Company, during the time intervening between that time and the formation of the American Bridge Company, state whether or not these concerns that went into the American Bridge Company were competitors in the United States in Interstate Commerce, in the sale of the various products which you have described them as having produced. Do you understand that question?

A. I think I do.

MR. DICKINSON: I will ask the stenographer to repeat it.

(The question was repeated by the stenographer as above recorded.)

THE WITNESS: They were.

MR. LINDABURY: With each other, all of them? I do not think he understands.

MR. DICKINSON: I think he does. Do you understand the question?

THE WITNESS: I understand you have asked the question whether or not from the time we left the Shiffler Bridge Company until the formation of the American Bridge Company, these named concerns were competitors of each other throughout the United States.

MR. DICKINSON: In the several products which you have stated.

THE WITNESS: My answer is that they were.

MR. SEVERANCE: But that is contradictory to another answer the witness made, when he said that some competed in the west and some only in the east.

By MR. DICKINSON:

Q. Were they or were they not competitors in the territory where you have described them in your previous answers as having sold?

A. They were.

Q. Mr. Marshall, name the principal concerns, either corporations or partnerships, which, at the time the American Bridge Company was formed, were not absorbed by the American Bridge Company, and were competitors of these various concerns that were taken over by the American Bridge Company, in the building of bridges and structural buildings.

MR. SEVERANCE: You mean competitors of these that you have named?

MR. DICKINSON: Yes. Do you understand the question?

THE WITNESS: I understand the question to be for me to name the bridge companies which were not taken over by the American Bridge Company, but which were competitors of the concerns that were taken over by them.

MR. DICKINSON: The principal ones, yes.

THE WITNESS: The principal ones are the Pennsylvania Steel Company, the Phoenix Iron Company—the Phoenix Bridge Company, I guess it is. The King Bridge Company—

By MR. DICKINSON:

Q. Do you recall the Passaic Steel Company?

A. I would not recall them under the important ones.

Q. Were any of these concerns you have named as large as either the Pencoyd or the Keystone or Edge Moor or the Lassig Bridge & Iron Works?

A. Were they large?

Q. As large as those?

A. I think these last you named were larger than any of the ones I have named.

Q. Do you know what was the capacity of the Phoenix

Bridge Works at the time the American Bridge Company was formed?

A. I think it was about 25,000 tons.

Q. Mr. Marshall, do you know approximately what was the capacity of the Passaic Steel Company at the time of the formation of the American Bridge Company?

A. About 12,000 tons.

Q. Mr. Marshall, did you know of a concern called the Raritan Structural Steel Company of Raritan, New York, as a competitor in 1901, or previous thereto, in the construction of bridges or iron and steel buildings?

A. I never heard of them.

Q. You never met them in any of that territory as competitors?

A. Never.

Q. I will ask you the same question about the Riter-Conley Company of Pittsburg, Pennsylvania.

A. They were competitors.

Q. In 1900 what did they make?

A. The Riter-Conley Company?

Q. Yes, sir.

A. Oh, they had a very extended variety of products. They made bridges, buildings, oil tanks, boilers, gas holders; all sorts of plate steel work.

Q. They made, as I understand you, other things besides bridges and structural material?

A. Yes, sir.

Q. I notice in the Iron & Steel Works Supplement for 1903, which has already been used by counsel for the defendants, that the Riter-Conley Company is there quoted as having a capacity of 100,000 tons. State whether or not that 100,000 tons represents only the capacity in bridge work and structural work, such as you have described, in which the Company in which you are engaged and these other companies, were competitors in interstate commerce.

MR. SEVERANCE: If he knows. He cannot guess at it. The witness understands he must not testify to anything that he does not know.

A. I will answer the question by saying that I do not know

what the 100,000 tons represents, but I do know that their capacity for structural steel work and bridges was not over 25,000 tons.

By Mr. Dickinson:

Q. In the same supplement for 1903, the McClintic Marshall Construction Company is put down as having a capacity of 85,000 tons. Did the McClintic Marshall Construction Company have a capacity of 85,000 tons in bridge and structural work such as you have described in which your company was in competition with these other companies in the years 1900 or 1901?

A. The capacity of the McClintic Marshall Construction Company for the year 1900 was a little less than 18,000 tons.

Q. And in 1901 what was it?

A. In 1901 it was a trifle more than that. I do not recall exactly. I can give you the exact figures if you wish to have me refer to data.

Q. In the same supplement the West Point Foundry, J. B. and J. M. Cornell, 26th Street and 11th Avenue, New York City, works at Cold Spring, railroad and highway bridges and steel buildings, annual capacity, 50,000 tons. State whether or not in the year 1900 that concern had a capacity of 50,000 tons in the character of work which you have described in which these several concerns that we have named that went into the American Bridge Company were competitors in interstate commerce.

Mr. Severance: If he knew.

Mr. Dickinson: He has been reminded enough to answer if he knows. The witness is under oath and he is an intelligent man. I am not asking him for anything he does not know.

Mr. Lindabury: Could this witness know of his own knowledge the capacity of all these 300 concerns?

Mr. Dickinson: I am not going to ask him about 300. I am asking him for those he does know, and it is for the witness to state. He says he was a competitor of these concerns and met them in Interstate commerce.

Mr. Severance: He has not mentioned this one.

Mr. Dickinson: He was a competitor, he said, Mr. Sever-

ance, of the people who competed generally in that class of work.

Read the question to the witness; and of course I do not want you to answer anything that you do not know approximately, and you can make your answer just as full and explanatory as you please, Mr. Marshall.

MR. LINDABURY: We do not want answers based on information obtained at a statistical or some other kind of an association that Mr. Colton has been attending.

MR. DICKINSON: No; I am not asking for that.

By MR. DICKINSON:

Q. Did you have any statistical association in the year 1900?

A. No, sir.

Q. Or 1901?

A. No, sir.

Q. Then you are not expected to base your answer on any statistical information acquired as of subsequent years.

(The question referred to was read by the stenographer as recorded).

MR. LINDABURY: I object to that further as leading. If you desire to get the real recollection of this witness, he ought to be asked what the capacity of these concerns was without having some statistical information read to him, and without being asked whether that is correct.

MR. DICKINSON: It is just as competent for him to state, if he knows, that they did not have a capacity of that size as it is for him to state if he knows the actual capacity they did have.

MR. LINDABURY: I do not agree to that at all.

MR. DICKINSON: Well, you have recorded the objection, and we will have to abide by it.

By MR. DICKINSON:

Q. Now, Mr. Marshall, what is the answer?

A. I do not know what the capacity of the Cornell Works was, but I know they did manufacture——

MR. LINDABURY: I object. The question is answered.

By MR. DICKINSON:

Q. You can go on with your answer.

A. What I know of the Cornell Works is that they manufactured and sold a great many cast iron columns, which is a foundry product, but whether or not that capacity is included in that tonnage given I do not know.

Q. State whether or not the J. B. and J. M. Cornell concern were competitors, in 1901, in interstate business in bridge and structural work, and if so, to what extent?

A. Their competition, as far as my experience goes, was confined to the east, largely, in the vicinity of New York.

Q. And in 1900?

A. Yes, sir; in 1900.

Q. In what were they competitors?

A. Principally building work, office building work, and the like.

Q. Were they competitors in bridge work?

A. I never met them in bridge work.

Q. State whether or not, at that time, in that class of work they were a large or small concern.

MR. SEVERANCE: That is merely speculative. I object to that as asking for a conclusion. He might call a concern a large concern that the Court would not think as large. You had better give it in tons.

Q. Do you know, approximately, what their capacity was?

A. I am not familiar with the capacity of the Cornell plant. The only experience we had with them in competition was on building work in the vicinity of New York.

By MR. LINDABURY:

Q. Might I ask who the witness means by "we" in connection with this testimony as the Cornell concern. Which of the two concerns did you mean when you said "we"?

A. Both, the Shiffler Bridge Company, and the McClintic Marshall Construction Company.

Q. Did the Shiffler Company meet them in competition here?

A. Yes, sir.

By Mr. Dickinson:

Q. On page 16 of the supplement I find "Scaife, William B. & Sons Company, Railroad and Highway Bridges, and Iron and Steel Buildings, also built tanks, stacks, turntables, car trucks, etc., annual capacity 30,000 tons." State whether or not tanks, stacks, turntables and car trucks were included in any way in the competition which you have described as having existed between the Pencoyd Works and the other concerns which were taken into the American Bridge Company in 1900?

A. The only product that you named there as being a competitive product is railroad turntables.

Q. And these other products which are included in those 30,000 tons, with the exception of the one named by you, were not in that competition at all?

A. No, sir.

Q. Do you know what was the fabrication capacity, in the competitive things of which we have been speaking, bridge and structural business, of that concern in 1900?

A. Not exceeding 10,000 tons a year.

Q. On page 12 of that supplement I find "The Fletcher & Crowell Company, of Portland, annual capacity 1,000 tons." State whether or not you knew of that concern as competing in 1900, or previous thereto, with the Shiffler Company, in the territory which you have described?

A. I never heard of them.

Q. I also find in this supplement the following "Megquier & Jones Company, of Portland, Railroad and Highway Bridges, Iron and Steel Buildings, capacity 3,000 tons." State whether or not you met them and knew of them as a competitor in that business, in interstate commerce?

A. I never heard of them.

Q. Take the Eastern Bridge & Structural Company of Worcester, "railroad and highway bridges, iron and steel buildings, annual capacity 3,000 tons." State whether or not you met and knew of them as a competitor in any of that territory in the competition which you have described?

A. I think I have heard of them, but we never met them in competition, as I recall.

Q. The Hawkins Iron Works of Springfield, annual capacity 4,000 tons. Were they competitors?

MR. LINDABURY: I object to this series of questions in which you are giving the witness the capacities as stated, of these companies. If you want to get what information he has I suggest that you put the question in such a way that it neither leads nor informs him as to your desired answer.

MR. DICKINSON: I think you led him, did you not?

MR. LINDABURY: I was cross-examining him.

MR. DICKINSON: But you brought that out as original matter and made the witness your witness.

MR. LINDABURY: No. I was cross-examining him upon your direct examination. We had that out the other day, Judge.

MR. DICKINSON: You are a little fastidious, I think, but I am going to try and meet your wishes in the matter. Read the objection, please.

(The stenographer read the objection as above recorded.)

MR. DICKINSON: For fear my question may have suggested the answer I desired I will not require him to answer that question. I will proceed to the next one and try to formulate it in a way that will be beyond criticism.

By MR. DICKINSON:

Q. The Norton Bridge Works of Springfield: Did you or did you not know of them as a competitor in bridge and structural work in interstate commerce in 1900, within any of the territory you have described? All of these questions are as of 1900 or prior thereto.

A. No.

Q. Take the Springfield Construction Company of Springfield. State whether or not in 1900 or prior thereto you knew of them or met them as a competitor?

A. I did not.

Q. When I say "you" I mean the company which you represented at that time. You understand that, do you?

A. Yes, sir.

Q. Take the Buffalo Steel Company, of Buffalo, and answer the same question as to that.

A. I have heard of them. I do not recollect whether it was prior to or after that time.

Q. Answer the same question, please, as to the Groton Bridge Company.

A. I have heard of them.

Q. That company was taken over by the American Bridge Company, was it not?

A. I think so.

Q. Will you answer the same question as to the Lane Bridge Company, and state whether or not you met them or knew of them as a competitor in bridge and structural work in 1900 and previous thereto in any of the territory you have described?

A. I did not.

Q. Take the Owego Bridge Company, of Owego, and answer the same question as to them?

A. I have heard of them.

Q. Did you meet them as a competitor in any of that kind of work?

A. Not in any particular case that I can recall.

Q. Now please answer the same question as to the Rochester Bridge & Construction Company of Rochester?

A. I did not know them.

Q. Will you answer the same question, please, as to the Jackson Architectural Iron Works, of New York?

A. I have heard of them only in connection with cast iron work.

Q. But you have not heard of them in bridge and structural work such as you have described, in which these companies were competitors?

A. No, sir.

Q. Levering & Garrigues Company, New York?

A. I know of them.

Q. State whether or not that is a concern which you met or knew of as a competitor in that territory in that class of work, in the year 1900?

A. Levering & Garrigues in 1900 were simply contracting agents; they had no shop.

Q. And if they had one in 1903, it started up afterwards?
A. Yes, sir.

MR. LINDABURY: That is really leading. See if he knows anything about it.

By MR. DICKINSON:

Q. Well, you do say that they were not competitors in that business as bridge and structural builders in 1900?

A. They were competitors in this way; that they contracted for competitive business and then sub-let it, to be manufactured by some other concern.

Q. But without any productive capacity of their own?
A. Without any productive capacity.
Q. I say without any productive capacity of their own?

MR. LINDABURY: You are testifying now, Judge.

By MR. DICKINSON:

Q. Did they have any works of their own for fabricating?
A. They did not.

MR. LINDABURY: They were merely competitors?
THE WITNESS: They were the worst kind of competitors.

By MR. DICKINSON:

Q. In what way?

A. They were brokers. They would take the chances on getting a contract, and then go around and get any fabricator, whoever they could get to do the work most cheaply.

MR. LINDABURY: That would demoralize any business, would it not?
THE WITNESS: Oh, that is terrible.

By MR. DICKINSON:

Q. Did you know the John A. Roebling's Sons Company of Trenton?
A. I knew of the firm; not as competitors.
Q. In what business were they engaged?
A. Largely manufacturing wire rope, I believe.

Q. Did they make any class of bridges?

A. Not that I know of. They made cables for suspension bridges.

Q. Were they at that time competitors in the construction of bridges of the character you have described these other concerns as constructing, and constructing material for the building of large buildings?

A. They were not.

MR. LINDABURY: Judge, they have some reputation, you must remember, in connection with the Brooklyn Bridge.

MR. DICKINSON: Yes, and some in connection with pools.

MR. LINDABURY: Well, I do not know whether the Brooklyn Bridge is a pool product or not, but it is a Roebling product.

MR. DICKINSON: That was a long time ago.

MR. LINDABURY: We are talking about ancient history now.

By MR. DICKINSON:

Q. The Allentown Rolling Mills of Allentown. State whether or not, in 1900, and previous thereto, you met them as competitors.

A. I heard of them, but they were no competitors of ours.

Q. Were they building bridges and large structural buildings at that time?

A. Not to my knowledge.

Q. State whether or not you had a general knowledge of people who were doing that kind of work?

A. I thought I had.

Q. You knew of these other concerns as competitors, that you mentioned as having gone into the American Bridge Company?

MR. LINDABURY: I object to that as suggestive and leading, and in violation of the promise counsel made as to the course he would pursue.

By MR. DICKINSON:

Q. Those concerns went into the American Bridge Company that we have named as doing the same class of business that you were doing, did you or not know them as competitors.

A. I did.

MR. SEVERANCE: He has stated that four times.

MR. DICKINSON: I am glad it is impressed on your memory.

MR. LINDABURY: I call your attention to the fact that the issue is not whether they competed with his concern, but whether they competed with the American Bridge Company.

MR. DICKINSON: Yes, and he competed with the others, and they were in the common business of competition.

By MR. DICKINSON:

Q. Take Ballinger Company of Pittsburg. State whether or not you knew of them in that line of work as competitors in 1900.

A. I do not recall just when they came into existence. I know of them now, and I do not recall whether or not they were in existence prior to 1900.

Q. Or during 1900?

A. I do not recall.

Q. The Dauphin Bridge & Construction Company, Philadelphia? State whether or not in 1900 and previous thereto you met or knew of them as competitors in structural work in interstate commerce.

A. I have heard of them, but I never considered them as a competitor.

Q. Did they bid on the work you were bidding on or not?

A. Not that I remember.

Q. Heyl & Patterson of Pittsburg. State whether or not you met them in 1900 or previous thereto as competitors in the kind of work in which you were engaged, in which you have described these other concerns as being engaged, the concerns which went into the American Bridge Company.

A. We met them as customers.

Q. Not as competitors?

A. Not as competitors.

MR. SEVERANCE: Were they brokers also?

THE WITNESS: They manufacture coal-conveying machinery largely.

By Mr. Dickinson:

Q. The Fort Pitt Bridge Works of Pittsburg. If you know, state approximately what was the capacity of that concern in the year 1900 in railroad and highway bridges and iron and steel buildings.

A. My recollection is that their capacity was about 12,000 tons.

Q. The Pittsburg Steel Construction Company of Allegheny. State whether or not in the year 1900 or previous thereto you knew of that company's being a competitor in the construction of bridges and iron and steel buildings.

A. I know of them now, but I do not recall when they came into existence.

Q. Do you know whether or not you met them as a competitor in 1900 or previous thereto?

A. I do not know. My recollection is that they are a recent organization, very recently formed.

Mr. Lindabury: It would require less care and study, Judge, if you would simply take the whole list and ask him about them.

Mr. Dickinson: I do not care about the study and care it requires. I appreciate your sympathy, but it is thrown away.

By Mr. Dickinson:

Q. The Schuylkill Bridge Works; Louis F. Shoemaker & Company, Philadelphia. State whether or not in 1900 and previous thereto you met or knew them as competitors in bridge and iron and steel buildings.

A. At that time they were another set of brokers.

Q. Not manufacturers or fabricators at all?

A. No, sir.

Q. The Smith Manufacturing Company of Waynesboro. Without repeating all of the question, you understand the question?

A. I never heard of them.

Q. You never knew of them as a competitor at that time?

A. No, sir.

Q. The York Bridge Company, York, Pennsylvania.

A. I did not know them.

Q. In the sense that I speak of——

MR. LINDABURY: He did not know them at all.

MR. DICKINSON: I am asking him what he means by the answer.

THE WITNESS: I do not know them as competitors.

By MR. DICKINSON:

Q. Lauer & Harper Company, Westport. State whether or not you knew them as competitors in that business.

A. I never heard of them.

Q. The West Virginia Bridge & Construction Company, Wheeling, West Virginia.

A. They were organized after 1900.

Q. Chattanooga Bridge Company, Chattanooga.

A. I did not know them.

Q. Do you understand my question?

A. Yes; we never met them in competition.

Q. Converse Bridge Company, Chattanooga?

A. We never met them in competition.

Q. Nashville Bridge & Construction Company, Nashville, Tennessee?

A. We never met them in competition.

Q. Carolina Bridge & Steel Company, Burlington, North Carolina?

A. Never met them.

Q. Lombard Iron Works & Supply Company, Augusta?

A. Never heard of them.

Q. Southern Bridge Company, Birmingham?

A. Never heard of them.

Q. Adams Brothers Company, Findlay, Ohio?

A. I never heard of them.

MR. LINDABURY: Pardon me, but is the witness answering as of to-day?

MR. DICKINSON: No, the question is as to 1900.

MR. LINDABURY: I only wanted to know whether he meant to answer as to that time or as to now.

MR. DICKINSON: Repeating the question, my question is whether or not he knew of these companies or met them in 1900 or previous thereto, in competition, in bridge or struc-

tural work of the character he has described, these concerns that went into the American Bridge Company as doing.

MR. LINDABURY: I understood your question was that way.

By MR. DICKINSON:

Q. You understand that?

A. Yes.

MR. LINDABURY: But one or two of the phrases he used in answering indicated that he has not heard of these companies up to the present time.

By MR. DICKINSON:

Q. You are answering the question as I put it, are you not, Mr. Marshall?

A. Yes, sir. Generally when I answer "I never heard of them," it means I have never heard of them even to-day.

MR. LINDABURY: That is what I thought.

THE WITNESS: And where I have answered that I do not know them or have not met them in competition, I mean I may have heard of them since, but never heard of them before.

By MR. DICKINSON:

Q. To avoid any confusion, try to answer the question, will you?

A. I will answer them all the same way.

Q. Yes; and answer them as of 1900 and prior thereto, and as competitors?

A. Yes, sir.

Q. The Brackett Bridge Company, Cincinnati?

A. I did not know them as competitors.

Q. As of the time now under discussion?

A. Yes, sir.

Q. Now, understand that, so as to avoid confusion.

A. Yes; I will try to confine all my answers to that.

Q. If you will answer yes or no, without qualification, we will understand it is an answer to that formula. Of course, you can make any answer you choose, but if you should answer

yes or no we would understand it is to this question I have put.

MR. LINDABURY: I think you had better let him answer as he pleases.

MR. DICKINSON: Very well; strike that out.

MR. LINDABURY: It is so leading.

By MR. DICKINSON:

Q. The Brackett Bridge Company, Cincinnati.

A. I did not know them as competitors.

Q. As of that time and previous thereto?

A. Yes, sir.

Q. The Brookville Iron Works, Brookville?

A. I did not know them as competitors.

Q. The Canton Bridge Company, Canton?

A. I have heard of them, and on rare occasions they were competitors.

Q. In 1900 or previous thereto?

A. Previous to 1900.

MR. LINDABURY: That has been understood, Judge.

MR. DICKINSON: I did not know whether you understood it.

MR. LINDABURY: Yes.

By MR. DICKINSON:

Q. The Champion Bridge Company, Wilmington?

A. Wilmington, where?

Q. Ohio.

A. I did not know them as competitors.

Q. Forest City Steel & Iron Company, Cleveland, Ohio?

A. I did not know them as competitors.

Q. The Garry Iron & Steel Company, Cleveland, Ohio?

A. I did not know them as competitors.

Q. Interstate Engineering Company, Cleveland, Ohio?

A. I did not know them as competitors.

Q. Iron Substructure Company, Columbus, Ohio?

A. I did not know them as competitors.

Q. The King Bridge Company, Cleveland?

A. They were competitors.
Q. Massilon Bridge Company, Massilon, Ohio?
A. They were competitors.
Q. National Iron & Wire Company, Cleveland?
A. I did not know them as competitors.
Q. The Oregonia Bridge Company, Oregonia?
A. I did not know them as competitors.
Q. The Rarig Bridge Company, Columbia?
A. I did not know them as competitors.
Q. Riverside Bridge Company, Wheeling, West Virginia?
A. I know of them now, and it is my recollection that they started since 1901.
Q. The Rodgers Iron Company, Springfield?
A. I did not know them as competitors.
Q. The Stewart Iron Works, Cincinnati?
A. I did not know them as competitors.
Q. The Variety Iron Works, Cleveland?
A. They were competitors.
Q. Anderson Bridge and Scraper Company, Anderson?
A. I did not know them as competitors.
Q. Attica Bridge Company, Attica, Indiana?
A. I did know them as competitors.
Q. The Brown-Ketcham Iron Works, Indianapolis?
A. They were competitors.
Q. In what character of work?
A. Principally in the Central West.
Q. What character of work?
A. Principally in building work.
Q. Structural building?
A. Structural steel buildings.
Q. Elkhart Bridge Company, Elkhart?
A. I did not know them as competitors.
Q. Indiana Bridge Company, Muncie?
A. I did not know them as competitors.
Q. Indianapolis Bridge & Iron Works, Indianapolis?
A. I did not know them as competitors.
Q. Lafayette Plant at Lafayette?
A. I did not know them as competitors.
Q. Noelke-Richards Iron Works, Indianapolis?
A. They are of some importance at the present time, but

my recollection is that they were not competitors during 1900.

Q. I omitted the Newcastle Bridge Company, of Indianapolis. What about them?

A. I did not know them as competitors.

Q. Pan-American Bridge Company, Newcastle?

A. I did not know them as competitors.

Q. Thatcher A. Parker, Terre Haute?

A. I did not know them as competitors.

Q. Rochester Bridge Company, Rochester?

A. I did not know them as competitors.

Q. Vincennes Bridge Company, Vincennes?

A. I did not know them as competitors.

Q. Wabash Bridge & Iron Works, Wabash?

A. I did not know them as competitors.

Q. Winamac Bridge Company, Winamac?

A. I did not know them as competitors.

Q. The American Bridge Company, Philadelphia; two plants in Illinois: American plant and Lassig plant, both located in Chicago?

A. American Bridge Company?

Q. You know them, did you not?

A. I knew the American Bridge Company, New York, but when you said Philadelphia—

Q. That is the way it is here.

MR. LINDABURY: You have not answered whether they were competitors or not.

THE WITNESS: How is that?

By MR. DICKINSON:

Q. This is the American Bridge Company of Philadelphia, Pennsylvania, the way it is put down here, and for description of the plant it says "see page 10." Now, with your permission I will turn to page 10. That is one of the companies in the American Bridge Company. You knew that?

A. I knew the American Bridge Company.

Q. You knew that as a competitor too, did you not?

A. Yes, sir.

MR. LINDABURY: Before it was formed? You are speaking of a time anterior to its formation, you know.

By Mr. Dickinson:

Q. Chicago Bridge & Iron Company?

A. I know of them. They were competitors in a small way.

Q. In what character of work?

A. Principally bridge work. Their principal product is tanks.

Q. Decatur Bridge Company, Decatur, Illinois.

A. I did not know them as competitors.

Q. The Elizabeth Steel Bridge Works, Elizabeth, Illinois?

A. I did not know them as competitors.

Q. The Illinois Bridge & Iron Company, Sullivan?

A. I did not know them as competitors.

Q. The Illinois Bridge & Machine Company, Jacksonville?

A. I did not know them as competitors.

Q. The Joliet Bridge & Iron Company, Joliet?

A. I did not know them as competitors.

Q. The Kenwood Bridge Company, Chicago?

A. They were competitors in a small way.

Q. In what?

A. Principally building work.

Q. A. Lucas & Sons, Peoria?

A. I did not know them as competitors.

Q. Missouri Bridge & Iron Company, East St. Louis?

A. I did not know them as competitors. I knew of them, but not as competitors.

Q. North Works, Illinois Steel Company?

A. I knew of them as competitors.

Q. Chicago?

A. Yes, sir.

Q. Competitors in what?

A. That is part of the American Bridge Company.

Mr. Lindabury: Judge, you have led the witness into an error. That company never went into the Bridge Company.

Mr. Dickinson: I did not lead him into an error at all. He stated it.

Mr. Lindabury: But that went in—

Mr. Dickinson: He has made the statement without any suggestion on my part.

MR. LINDABURY: But get it right. The Illinois Steel Company did not go into the American Bridge Company.

MR. SEVERANCE: Did you mean to say that the Illinois Steel Company went into the American Bridge Company, or that both went into the Steel Corporation?

THE WITNESS: I mean to say the North Works of the Illinois Steel Company in their fabricating department were at that time—rather it is my understanding of it that their product now is part of the American Bridge Company's product.

MR. SEVERANCE: You are asked about 1900.

MR. LINDABURY: He does not mean that.

MR. DICKINSON: Let us see what he does mean.

MR. SEVERANCE: Judge Dickinson has told you repeatedly he wanted you to testify as to 1900. Is that true of 1900?

THE WITNESS: My answer, as far as the American Bridge Company is concerned—I do not know what processes of development they went through from the year 1900 up to the present time, but I do know that the Illinois Steel Company's North Works was a part of the Steel Corporation, and I am speaking now of the fabricating part of the Steel Corporation, whether it includes the American Bridge Company or whether it includes two or three other departments of the Steel Corporation—I am not attempting to separate them.

MR. SEVERANCE: You evidently have not been testifying to the matters the Judge was asking about, because he was asking you about 1900, and that was the year before the Steel Corporation was formed.

MR. DICKINSON: I have not asked about any concerns that went into the American Bridge Company except in a specific way.

MR. LINDABURY: But it is confusing.

THE WITNESS: I understand the Steel Corporation was not formed for a year after the American Bridge Company was formed.

MR. SEVERANCE: Please let the witness explain just what he does mean, because I am sure he wants to have it right.

MR. DICKINSON: What he means by what?

MR. SEVERANCE: That answer about the Illinois Steel Company going into the American Bridge Company.

MR. COLTON: It was not the Illinois Steel Company, it was the North Works.

MR. SEVERANCE: Let him explain what he means.

By MR. DICKINSON:

Q. Just explain what you meant by that?

MR. SEVERANCE: You had better ask him another question.

MR. DICKINSON: I did not ask him that.

MR. SEVERANCE: In order to straighten it out, I will ask you this question—

MR. DICKINSON: Never mind.

By MR. DICKINSON:

Q. Just state what you know, if anything, in regard to the works at Chicago going into or under the control of the Steel Corporation. If you know about it explain it, and if you do not know, so state.

A. The North Works, which I understand is a part of the Illinois Steel Company, did quite a business in fabricating, principally building work, and the Illinois Steel Company's North Works was a competitor in Chicago and the Western District for that class of work. The Illinois Steel Company's plant, I believe, did not go into the American Bridge Company until after the Steel Corporation was formed, but at the present time the capacity which was represented by the North Works of the Illinois Steel Company is a part of the American Bridge Company's capacity.

Q. The Springfield Bridge & Iron Company, Springfield?

A. I did not know them as competitors.

Q. Western Bridge Company, Chicago?

A. I did not know them as competitors.

Q. La Crosse Bridge & Steel Company, La Crosse?

A. I did not know them as competitors.

Q. Modern Steel Structural Company, Waukesha?

A. I knew of them and they were competitors in a small way.

Q. In what?

A. Principally building work.

Q. Wisconsin Bridge & Iron Company?

A. They were competitors.

Q. In what?

A. Bridges and buildings.

Q. The Minneapolis Steel & Machinery Company at Minneapolis?

A. I know of them. They are competitors in a small way. Whether or not they were in 1900, I do not know.

Q. You understand I am only asking you as to 1900?

A. I understand.

Q. The St. Paul Foundry Company, of St. Paul?

A. I did not know them as competitors.

Q. The Clinton Bridge & Iron Works, of Clinton?

A. I did not know them as competitors.

Q. The Des Moines Bridge & Iron Works of Des Moines?

A. I did not know them as competitors.

Q. Fair-Williams Bridge & Manufacturing Company, Ottumwa?

A. I did not know them as competitors.

Q. The Marshalltown Bridge, Boiler & Machine Shops?

A. I did not know them as competitors.

Q. The Banner Iron Works of St. Louis.

A. I did not know them as competitors.

Q. Stupp Brothers Bridge & Iron Company?

A. I did not know the mas competitors.

Q. Missouri Valley Bridge & Iron Works, Leavenworth?

A. I knew of them.

Q. In what class of work?

A. It was principally bridge work. I do not believe they had a shop.

MR. SEVERANCE: Is that merely your opinion, or do you know?

THE WITNESS: That is just my opinion.

MR. SEVERANCE: I will object to that answer, because he does not know.

By MR. DICKINSON:

Q. Topeka Bridge & Iron Works?

A. I did not know them as competitors.

Q. The Wichita Works, of Wichita?

A. I did not know them as competitors.

Q. The Enid Works, Enid, Oklahoma?

A. I did not know them as competitors.

Q. The Fargo Bridge & Iron Company of Fargo?

A. I did not know them as competitors.

Q. The Puget Sound Bridge & Dredging Company, of Seattle?

A. I did not know them as competitors.

Q. The Portland Bridge & Building Company, of Portland?

A. I did not know them as competitors.

Q. The Judson Manufacturing Company, of California?

A. I did not know of them as competitors.

Q. I will ask you whether there were concerns that made bridge work and iron work in the United States, of a local character, not engaged in interstate commerce.

A. There were quite a number of concerns whose work was largely local.

Q. In the statistics of this sort, what are included, if you know?

A. I do not know. I never saw any statistics or a publication of that kind that impressed me as being reliable.

Q. You do not know whether that is included in them?

A. I do not know whether that is included; no.

Q. What class of bridge workers are called fabricators? What class of shops and works are called fabricators?

A. It is pretty hard to make any clear distinction, because every man who works a piece of steel into a different shape from that in which he gets it is a fabricator.

Q. Shops and works which do that class of works are fabricators?

A. A country blacksmith is a fabricator.

Q. Any man that takes plain material and turns it into any form is a fabricator?

A. Every man that buys a beam from a rolling mill and punches a hole in it for use is a fabricator.

Q. Every shop or works that does any of that character of work is a fabricator, is it not?

A. Yes, sir; but not in a competitive sense, though.

Q. Mr. Marshall, what percentage of work described as bridge and structural work for the doing of which a concern is equipped, and which you have described as competing in

interstate commerce with your companies, or the companies with which you were, and with the American Bridge Company, the year 1900, was done by those concerns taken over by the American Bridge Company, and what percentage of competitive work of that character was left out of that combination?

MR. SEVERANCE: The witness clearly could not know that except by reference to some compilation of statistics, and he said a moment ago that he placed no reliance upon any such compilations, and that he had never seen any statistics which were prepared that he regarded as reliable, and his answer must necessarily be a mere guess or speculation, and I further object to it as incompetent.

By MR. DICKINSON:

Q. Based upon your knowledge acquired in the business, in competition with concerns that come in competition with those concerns with which you were connected, please answer the question to the best of your knowledge and belief.

MR. SEVERANCE: I object to that, because the question is so entirely deficient in its terms; it does not contain all the elements; and I repeat, as part of the objection, the objection which I made as to the previous question which was not answered.

By MR. DICKINSON:

Q. Will you answer the question, please?

A. It was my opinion at the time the American Bridge Company was formed that they absorbed about 75 per cent. of the competitive business.

Q. Of the character which you have mentioned?

A. Yes, sir.

Q. That is bridge and structural work?

A. Bridge and structural work.

Q. State whether or not, before the formation of the United States Steel Corporation, your concern did any work for and got any contracts from the American Tin Plate Company?

A. We did.

Q. Have you since?

A. No, sir.

Q. How about the Carnegie Company?

A. We did work for the Carnegie Steel Company.

Q. Have you had any since?

A. No, sir.

Q. How about the National Tube Company?

A. I do not recall as to the National Tube Company, whether we did anything for them or not.

Q. Do you know where that class of work which you got from the American Tin Plate Company and from the Carnegie Steel Company previous to the formation of the United States Steel Corporation now goes?

A. It goes to the American Bridge Company.

Q. State whether or not in the fabricating plants of the American Bridge Company are generally connected with, or separated from, the rolling mills that produce the material that is worked up in such fabricating plants.

A. I think they are very largely separated from the rolling mills.

Q. In regard to such bridge work as that for which the companies you have mentioned were in competition are you now in competition with the American Bridge Company, and have you been in recent years, since its formation?

A. We have.

Q. Take the year first preceding this, I mean the twelve months, and state whether or not your mill has been running to full capacity on that character of work.

MR. LINDABURY: I object to that as immaterial.

A. It has not.

By MR. DICKINSON:

Q. State whether or not you know whether the American Bridge Company has been running to the full capacity.

MR. LINDABURY: Objected to as immaterial.

A. All the information I have in reference to the American Bridge Company is what I can gather from the United States Steel Company's annual reports, and basing their output last year with that of the year previous, they got out 88 per cent.

By Mr. Dickinson:

Q. Of what?

A. Their last year's output was 88 per cent. of the year before. What their contracts taken on were I do not know.

Q. You mean to say that for last year they got 12 per cent. less than the year before?

A. The output as given in the Steel Company's report for the year 1911 is 88 per cent. compared with the year 1910.

Q. 88 per cent. of their own production, you mean?

A. Their own production, yes.

Q. The question I intended to ask you was this: What proportion of the business done in the United States, in that character of work, has been done by the American Bridge Company, and what proportion by those who were competitors in that class of work?

Mr. Severance: I object to that for the reason that the witness cannot answer that by reference to statistics, and he has already stated that he has not seen any statistics which he regards as reliable.

Mr. Dickinson: Maybe the witness thinks he can answer it. We will see.

A. I understand your question to mean this: What proportion of the business the American Bridge Company contracted for—

By Mr. Dickinson:

Q. Of the class of work for which you and the companies in like business compete with the American Bridge Company.

Mr. Severance: The same objection to that.

A. The only answer I can make to that is what I can gather from my general information of the business from month to month, and I could give no absolute figures. If you want my opinion——

By Mr. Dickinson:

Q. Give the approximate figures to the best of your ability.

Mr. Severance: The same objection.

MR. LINDABURY: I understand the witness has nothing but an opinion and has no figures at all.

MR. DICKINSON: The record will show what the foundation of his answer is.

MR. LINDABURY: Yes, the record will show that, but I do not think you ought to ask questions that you would not think of asking if this testimony were taken directly before a judge.

By MR. DICKINSON:

Q. You have been familiar with the business?

A. Yes.

Q. And you meet these people in competition?

A. Yes.

Q. It is part of your business to know what contracts are let over the country?

A. Yes.

Q. And what concerns get them?

A. Yes, sir.

Q. Now, based upon your general knowledge of the business of the country that way, please answer that question to the best of your ability.

MR. SEVERANCE: The same objection.

A. I think they have contracted during the last year for approximately 70 per cent. of all the business that was left.

By MR. DICKINSON:

Q. In business of that character?

A. Yes, sir.

(Thereupon, at 12:30 o'clock p. m., a recess was taken until 2 o'clock p. m.)

AFTER RECESS.

C. D. MARSHALL,

the witness under examination when the recess was taken, resumed the stand.

CROSS EXAMINATION.

By Mr. Severance:

Q. Mr. Marshall, what year did you say you went into the bridge and structural steel business? When did you first engage in the business?

A. In the fall of 1888.

Q. And you were never with any company until you went with the Shiffler Company?

A. No, sir.

Q. And in what capacity were you employed by that company?

A. I started in as a draftsman and I ended as secretary and engineer in charge of the contracting.

Q. Then you had experience in all the branches of their business?

A. Yes, sir.

Q. Both bridge building and structural steel work?

A. Yes, sir.

Q. And it was in 1900, I believe, that you went into business with your present firm or corporation?

A. Yes, sir.

Q. Who were the original parties in the McClintic Marshall Company?

A. Mr. A. W. Mellon, Mr. R. B. Mellon, Mr. Morse, Mr. R. N. Wick, Mr. McClintic and myself.

Q. What time in the year 1900 was that organization formed?

A. February 1, I believe; about the first of February.

Q. 1900?

A. I think maybe the charter was taken out in March. We left the Shiffler Bridge Company the first day of February, 1900, and immediately started the McClintic Marshall Con-

struction Company. I do not think the charter for the McClintic Marshall Construction Company was secured until some time in March.

Q. Is that the same corporate name you are still doing business under?

A. Yes.

Q. The same organization?

A. Yes, sir.

Q. What was your capital stock when you started?

A. Five or ten thousand dollars.

Q. Five thousand or ten thousand dollars?

A. Just nominal.

Q. Was that contributed by all the gentlemen of whom you have spoken?

A. No. I do not remember just now how it was divided up, but the effective organization was contributed to by all of the men I have named.

Q. You had a nominal capitalization. Did you immediately, or very shortly thereafter, increase it to what you would call an effective amount?

A. Yes, sir.

Q. And what was the capital at that time, after you had thus increased it?

A. I do not recall what it was. I think it was about $300,000.

Q. About $300,000?

A. Yes.

Q. What is your present capitalization?

A. $5,000,000.

Q. Immediately upon organizing your company in 1900 you became a competitor of these companies that you have mentioned afterwards acquired by the American Bridge Company?

A. Yes, sir.

Q. And you have been continuously a competitor of the American Bridge Company since its organization, have you not?

A. Yes, sir.

Q. And your capitalization has grown from $300,000, at the commencement of that competition, to $5,000,000?

A. Yes, sir. The amount of capital stock issued, though, is only $3,500,000.

Q. $3,500,000, then?

A. Yes.

Q. You have grown to be about twelve times as large in your paid up capitalization as you were in 1900?

A. Yes, sir.

Q. You stated to Judge Dickinson this morning that your output in 1900 was about 18,000 tons, if I recall?

A. Yes, sir.

Q. What was your output for the several years since 1900 down to date, if you can tell?

A. Do you want it for each year?

Q. Yes; if you please.

MR. LINDABURY: He has got it.

THE WITNESS: I have not got it for 1901. In 1902 it was $52,845.

By MR. SEVERANCE:

Q. That is, you increased from 18,000 tons in 1900 to 52,000 tons in 1902?

A. Yes, sir.

Q. When the American Bridge Company, your most formidable competitor, was something over a year old?

A. Yes, sir.

Q. Go on, now, and give us the rest of the years.

A. 1903 was 58,000. 1904 was 45,000.

Q. That was a bad year in the steel business generally, was it not—1904?

A. Yes, sir.

Q. Everybody's output fell off that year, did it not?

A. Yes, sir.

Q. Go on.

A. 1905 was 67,000. 1906 was 111,000. 1907 was 111,000. 1908 was 80,000.

Q. That was another bad year in the steel business, after the panic of 1907?

A. Yes, sir.

Q. And that year you had only about four times as much business as you did in 1900, 80,000 as against 18,000?

A. Yes, sir.

Q. Go ahead.

A. 1909 was 87,000. 1910, 133,000. 1911, 101,000.

Q. In a general way what was the class of business you have been engaged in?

A. Principally, railroad bridges, mill and factory buildings and office buildings, storage buildings.

Q. Structural steel buildings?

A. Structural steel work in general.

Q. Now from whom have you purchased your raw material during that period? From what different manufacturers of steel?

A. Oh, practically everybody who rolled steel.

Q. Will you kindly name them?

A. Carnegie Steel Company, Jones & Laughlin, Phoenix Iron Company, Eastern Steel Company, Cambria, Lukens Iron & Steel Company, Worth Brothers.

Q. Pennsylvania Steel Company?

A. No, sir; I do not think we have ever bought anything from the Pennsylvania Steel.

Q. Maryland Steel?

A. No, sir.

MR. LINDABURY: Had he finished his answer?

By MR. SEVERANCE:

Q. Have you given us all of them?

A. That is all the important ones. There is the Carbon Steel Company and United Steel Company, of Canton, and maybe some others that I do not recall.

Q. Shiffler Steel Company?

A. No, sir.

MR. REED: They do not roll.

By MR. SEVERANCE:

Q. Illinois Steel Company?

A. No, sir.

Q. Bethlehem Steel Company?

A. Yes, sir.

Q. You have been a customer, then, of all the large steel manufacturers except the Pennsylvania and the Maryland?

A. Yes, sir.

Q. Lackawanna, have you bought from them?

A. In a very small way.

Q. You have not been attached, then, to any particular manufacturer?

A. No, sir.

Q. But you bought in the market where you could do the best as you thought at the time, is that right?

A. Yes, sir.

Q. Can you tell me in what parts of the United States you have sold your products?

A. Practically every part of the United States.

Q. Do you sell on the Pacific Coast?

A. Yes, sir.

Q. In what States?

A. Washington, Oregon.

Q. California?

A. California.

Q. Also in the Central States and the Mountain States?

A. In a very small way.

Q. Is the Colorado Fuel & Iron Company engaged in this same business?

A. No, sir; not to my knowledge.

Q. Is there any company in that region engaged in that business?

A. Not any of any importance.

Q. There are a great many structural steel or fabricating plants not of large size, but who do business in different parts of the country, are there not, who do business in their own neighborhood?

A. Yes, sir.

Q. And do you sometimes meet their competition?

A. Oh, very rarely.

Q. But their output would have to be considered in determining the total output of structural steel or bridge business in the country, would it not?

A. I suppose it would.

Q. And as to the extent of that output except in cases where you had yourself been brought in competition with them, you are unable to give any testimony?

A. No, sir.

Q. Do you build highway bridges or only railroad bridges?

A. Highway bridges of large tonnage.

Q. Will you give some examples of large highway bridges that you have built during this time that you have been in competition with the American Bridge Company?

A. Well, we built a large viaduct in Cleveland, we built a combination highway and railroad bridge at Kansas City across the Missouri River.

Q. When did you build that bridge?

A. Just finished last year.

Q. What is the tonnage of that bridge, do you remember?

A. About 17,000 tons.

Q. That was a large bridge, was it not?

A. Yes, sir.

Q. How large was this viaduct in Cleveland?

A. I think there were eight thousand or nine thousand tons in it.

Q. Can you give some other large highway bridges?

A. I do not recall them just offhand.

Q. Can you give any examples of large structural steel buildings that you have built?

A. Yes.

Q. Will you give some of them, stating the cities in which they are located?

A. We built the Marshall Field building in Chicago; we built the office building at the Grand Central Station here in New York.

Q. This Grand Central Station up here?

A. Yes, sir.

Q. You built that within the last two or three years?

A. No; I think it was three or four years ago.

Q. Yes. Go ahead.

A. And we built the building for the Union Steel Company at Denora, Sharon Steel Company at Sharon.

Q. Can you not give some more office buildings here in New York or in Chicago?

A. No, sir; I cannot recall them just offhand.

Q. But you have done a lot of them?

A. Yes.

Q. A great many, have you not?

A. Not what you would call a great many office buildings.

Q. What have you built?

A. We have built a great many factory buildings and rolling mill buildings and railroad bridge work.

Q. I am coming to the railroad bridge work in a moment. But you have built a great many large factory buildings?

A. Yes, sir.

Q. Where have they been located?

A. All over the United States.

Q. You said you had with you in business Mr. A. W. Mellon, and what is the other Mr. Mellon's name?

A. Mr. R. B.

Q. What is their business?

A. They are bankers.

Q. Are they in any other business besides banking?

A. I think they are interested in a large number of businesses.

Q. What other business are they in?

A. I am not familiar with what businesses they are in, only incidentally.

Q. Now, coming to the question of railroad bridges if you cannot give us any more examples of factory buildings—

MR. DICKINSON: He has not said he could not give more examples.

MR. SEVERANCE: He says he cannot recall them.

By MR. SEVERANCE:

Q. Can you give us any other examples?

A. I may if I think long enough.

Q. Can you, offhand, without stopping to think?

A. No.

Q. That is what I understood you to say. Coming to the question of the various railroads that you have built bridges for, have you built bridges for the Baltimore & Ohio?

A. Yes, sir.

Q. Have you built for the Pennsylvania?

A. Yes, sir.

Q. Have you built bridges for the Northern Pacific?

A. Yes, sir.

Q. For the Great Northern?

A. Yes, sir.

Q. For the Rock Island?

A. Yes, sir.

Q. For the Western Pacific, that runs from Salt Lake to San Francisco?

A. Yes, sir.

Q. For the Missouri Pacific?

A. Yes, sir.

Q. For the Southern Railway?

A. Yes.

Q. For the Atlantic Coast Line?

A. Yes.

Q. For the Louisville & Nashville?

A. Yes, sir.

Q. For the Lake Shore?

A. Yes.

Q. For the New York Central?

A. Yes.

Q. For the Michigan Central?

A. Yes.

Q. For the Erie?

A. Yes.

Q. For the Lackawanna?

A. Yes.

Q. For the New York, New Haven & Hartford?

A. Yes, sir.

Q. For the Reading?

A. Yes.

Q. For the Central of New Jersey?

A. Yes.

Q. For the Lehigh Valley?

A. Yes.

Q. For the Monon?

A. I am not so sure about the Monon.

Q. I am glad to find one you have not built for. Chicago & Northwestern?

A. Yes, sir.

Q. Chicago, Milwaukee & St. Paul?

A. Yes, sir.

Q. And the Puget Sound extension of that road?

A. Yes, sir.

Q. For the Chicago & Alton?

A. I am not so sure about the Alton. I think we have, though.

Q. Texas Pacific?

A. I am not certain about that.

Q. Illinois Central?

A. Yes, sir.

Q. I have pretty nearly called the calendar.

A. There are a few you have missed.

Q. The American Bridge Company has not been able to put you out of that business, have they?

A. No; not these particular roads.

Q. Not those particular roads, and those are most of the roads. Are these bridges that the railroads build built after competitive bids are offered?

A. How is that?

Q. Are they built after competitive bids are offered?

A. Yes, sir.

Q. In all cases?

A. Practically all cases.

Q. In those cases was the American Bridge Company as a rule a bidder against you?

A. They were.

Q. What other bridge companies were bidders against you on those bridges?

A. Very often the Pennsylvania Steel Company, the Phoenix Bridge Company, the King Bridge Company and the Fort Pitt Bridge Company—the larger independents.

Q. You spoke of the Pennsylvania Steel Company as being a bidder against you?

A. Yes, sir.

Q. That company is partly, at least, controlled by the Pennsylvania Railroad Company, is it not, by stock ownership?

A. I understand that it is.

Q. But it has met you in the field of competition?

A. Yes.

Q. Even on business for the Pennsylvania Road itself?

A. Yes, sir.

Q. And you have taken the business?

A. Yes, sir. If they were all as fair as the Pennsylvania Railroad we would be all right.

Q. How about the Panama locks?

A. What about them?

Q. Who builds them?

A. We are building them.

Q. You are building the Panama locks?

A. Yes, sir.

Q. Did you get that in competition with the American Bridge Company?

A. Yes, sir.

Q. You got the job?

A. Yes, sir.

Q. How much is the tonnage of those Panama locks?

A. About 55,000 tons.

Q. That is a pretty big contract, is it not?

A. Yes, sir.

Q. What does it amount to in dollars and cents, if you do not mind telling us?

A. Something over $5,000,000.

Q. What other concerns bid on that work, except the American Bridge Company?

A. The Pennsylvania Steel and Riter-Conley.

Q. Anyone else?

A. That is all I recall.

Q. This Riter-Conley Company is a large, strong concern, and has been for many years, has it not?

A. Yes, sir.

Q. That concern has been in business since long before the American Bridge Company was formed, has it not?

A. Yes, sir.

Q. That is a Pittsburg Company, is it not?

A. Yes, sir.

Q. They have works in Allegheny, have they not?

A. Allegheny and Leetsdale.

Q. What about the Hell Gate Bridge; out here near New York? Do you know of a bridge of that name?

A. Yes, sir.

Q. The American Bridge Company built the main span and you have got the approaches, have you not?

A. They are building——

Q. They are building the main span, and you have the contract for the approaches, have you not?

A. Yes, sir.

Q. What is the tonnage of those approaches?

A. About 45,000 tons.

Q. What railroad is building that? Is it not the New Haven?

A. I do not know that that is the name of it. It is a Pennsylvania Railroad interest.

Q. Is it not the New York, New Haven & Hartford?

A. I believe they are partly interested in it.

Q. Is it not the New York Connecting Railroad? Is that the one you have the contract with?

A. Yes, sir.

Q. That is owned jointly, as you understand it, by the New Haven Company and the Pennsylvania?

A. Yes, sir.

Q. Now, the New Haven road is one of these roads that it is stated in the bill has interlocking directors with the Steel corporation. You did not find any difficulty by reason of that fact in getting that contract for these approaches, did you?

MR. DICKINSON: That is excepted as leading and incompetent.

MR. SEVERANCE: It is cross-examination.

MR. DICKINSON: I have not examined him on that.

MR. SEVERANCE: You have examined him on the extent of his business.

MR. DICKINSON: I never referred to interlocking directors.

A. No, sir.

By MR. SEVERANCE:

Q. The fact that some directors of the New York Central

are also directors of the Steel Corporation did not prevent your geting the contract for the terminal building here, this office building, did it?

MR. DICKINSON: That is excepted to as irrelevant and incompetent.

A. No, sir.

By MR. SEVERANCE:

Q. You did not run against that difficulty in bidding?

MR. DICKINSON: That is excepted to as incompetent.

A. No, sir.

By MR. SEVERANCE:

Q. In the business that you have done for the Pennsylvania Railroad did you find any difficulty because of the fact that certain gentlemen are directors of the Pennsylvania Railroad and also directors of the United States Steel Corporation?

MR. DICKINSON: That is excepted to as irrelevant and incompetent.

A. No, sir.

By MR. SEVERANCE:

Q. That did not interfere in the matter?

A. Not to my knowledge.

Q. You got the business?

A. We got our share of it.

Q. Did you bid on the main span of this Hell Gate Bridge?

A. Yes, sir.

Q. I mean the span that went to the American Bridge Company?

A. Yes, sir.

Q. What other companies bid on that?

A. I do not know. I understand, however, that the Pennsylvania Steel Company and the Phoenix Company bid on it. Whether there is any other or not I do not know.

Q. What companies bid against you on the approaches?

A. The same companies.

Q. The American Bridge Company bid on the approaches against you, did it not?

A. I suppose they must have; they got the job.

Q. I said "on the approaches."

A. Oh, on the approaches—I understood they did.

Q. You bid on the main span?

A. Yes, sir.

Q. They beat you on the main span and you beat them on the approaches?

A. Yes, sir.

Q. Do you know whether in both cases the contract was let to the lowest bidder?

A. I do not know.

Q. You know it was in your case, do you not?

A. I do not know.

Q. You do not know that?

A. No, sir.

Q. You merely know that the bids were accepted, as you have stated?

A. Yes, sir.

Q. And they were competitive bids?

A. Yes, sir.

Q. They were sealed bids, were they?

A. All bids are sealed.

MR. SEVERANCE: It appeared here the other day that the seals were sometimes broken.

MR. DICKINSON: They are all broken before you find out what they are.

By MR. SEVERANCE:

Q. From 1900, at the time the Bridge Company was formed, have you ever belonged to any pool or combination of any sort with the American Bridge Company?

A. No, sir.

Q. Have you ever belonged to any society or association of men, of which that company was a member, which had anything to do with prices?

A. No, sir.

Q. Are you a member of this society that was testified to the other day by Mr. Dean, of the Phoenix Bridge Company?

A. What was the society?

Q. He said there was an association of bridge builders which had a secretary and an organization.

A. Yes, sir.

Q. What is the name of it?

A. The American Bridge Builders' Society.

Q. You belong to that, do you?

A. Yes, sir.

Q. The American Bridge Company is not a member of that association, is it?

A. No, sir.

Q. Mr. Marshall, each contract that is taken by bridge companies for the construction of a bridge, or for the building of a structural steel building, is a separate and distinct transaction? There is no uniform price on anything of that kind, is there?

A. No, sir.

Q. You have to take into account the design of the building and the cost of the raw material, the cost of labor, and such reasonable profit as you are satisfied to get, and then make a bid on each piece of work by itself?

A. Yes, sir.

Q. That is true, is it not?

A. Yes, sir.

Q. And everybody else in that line of business has to the same thing?

A. Yes, sir.

Q. So that an organization of a number of different companies in that business would simply provide a larger output and a larger working force in preparing the plans, preparing the bids, and in executing them after they are made?

A. Yes, sir.

Q. That is the only difference between a large and small concern?

A. Yes, sir.

Q. Anybody who has sufficient funds to procure the raw material or sufficient credit and sufficient engineering capacity

to figure costs and attend to the assembling and the erecting and fabricating of the work can go into that business?

A. Yes, sir.

Q. Can you tell me anything about the comparative tonnage of any of the rest of your competitors in 1900 and at the present time? Take the Pennsylvania Steel Company. I do not ask you for figures, but would you say that their output is larger than it was twelve years ago?

A. Yes, sir; I think it is very much larger.

Q. Very much larger than it was twelve years ago?

A. Yes.

Q. What would you say as to the Phoenix Company?

A. I do not think it is any larger.

Q. What would you say about these other companies you spoke of as being engaged in competition with in the business, —the larger companies?

A. Have you the names of them?

Q. I had a list of them, but I do not find the list at this moment. What is the next largest interest, outside of the American Bridge Company and yours?

A. I think the Pennsylvania Steel Company.

Q. And what is the next to that?

A. Probably the Phoenix.

Q. And next to that?

A. King.

Q. How does the tonnage, from your observation of King's concern, compare with what it was twelve years ago?

A. I do not think it is very much larger.

Q. You only know from observation?

A. Yes, sir.

Q. You do not think it is larger?

A. No, sir.

Q. What other company is there that you would say is next in output to the King Company?

A. Probably the Riter-Conley Company.

Q. Mr. Riter is dead, is he not?

A. Yes.

Q. He was the head of the company.

A. He was the whole thing, yes.

Q. What is your answer?

A. He was the whole show.

Q. And he died three or four years ago?

A. Yes.

Q. Up to the time he died, that company had been growing a good deal, had it not?

A. Yes, sir.

Q. You stated that in your opinion for the last year the American Bridge Company had secured about 70 per cent of the business that was competitive with you.

A. Yes, sir.

Q. You did not mean by that that they had secured 70 per cent of the total business in that line in the country in these large and small bridges alike, but you meant 70 per cent of the business that you were brought in contact with?

A. I meant it was my opinion that they had secured 70 per cent of the class of work that they were competitors for.

Q. Competitors with you?

A. No, competitors with everybody.

Q. Is it not a fact that they have plants scattered around through the country that are competitors of local concerns, which do not come in contact with you?

A. I think not.

Q. You think there are none such?

A. I do not think there are.

Q. For instance, you stated that you had very little competition—I am speaking of something I know something about now—with the Minneapolis Steel Machinery Company.

MR. DICKINSON: I object to that. It is telling the witness that he had better not state anything contrary to what you know to be true.

MR. SEVERANCE: I am simply following your own methods.

MR. DICKINSON: No, if you follow that line you are following a line that I have never pursued.

By MR. SEVERANCE:

Q. I will ask you, then, about the Minneapolis Steel & Machinery Company. Do you know about that company?

A. Yes, sir.

Q. What do you know about them? Do you know whether they do a large or a small business?

A. I do not know about the extent of their business. We have met occasionally in competition, but not a great deal.

Q. Then you do not look upon them as a specially strong concern or a concern with a large output, because you have not met them very much?

A. No, I do not consider them a concern with a large output.

Q. How many men do you employ?

A. You mean the shops?

Q. Yes; and in erecting, altogether, in your shops and in erecting?

A. Probably 5,000 men.

Q. You employ about 5,000 men. How many men would you say would be employed in a concern that you would regard as a reasonable competitor of yours? How large a concern would a concern have to be in the way of employment of labor—a thousand men?

A. I could express it better in tonnage. Any concern that does not get out more than 10,000 tons a year I would not consider a competitor.

Q. But any concern that does get out 10,000 tons a year you would consider a competitor?

A. Yes.

Q. And you would consider such a concern a competitor of these other competitors of yours?

A. Yes.

Q. The American Bridge Company and the Phoenix and Riter-Conley and the others?

A. Yes.

Q. So if we could name the concerns in the country that have an output of ten thousand tons a year, you would put them in the class of substantial competitors?

A. Yes, sir.

Q. You do not know what the output of the Minneapolis Steel & Machinery Company is?

A. I do not.

Q. Do you know the Koken Iron Works of St. Louis?

A. I have heard of them.

Q. Do you regard them as competitors of yours?

A. In a way, yes.

Q. How about the Clinton Bridge & Iron Works of Clinton, Iowa?

A. I do not know them.

Q. I call attention to the fact that in this book from which Judge Dickinson was examining you this morning, they appear in 1903 to have had an annual capacity of 10,000 tons. Would that make a difference in your view?

A. No, sir.

MR. DICKINSON: What page is that?

MR. SEVERANCE: Page 21 of this book. Clinton Bridge & Iron Works of Clinton, Iowa, railroad and highway bridges and iron and steel buildings. Annual capacity, 10,000 tons. That is the information given in this book.

By MR. SEVERANCE:

Q. Do you consider the Kenwood Bridge Company of Chicago a competitor?

A. At the present time?

Q. Yes.

A. I do.

Q. Did you in 1903?

A. No, sir.

Q. I call your attention to the fact that on page 20 of this book, from which Judge Dickinson was examining you, it being the Swank book for 1903, this statement is made in regard to the Kenwood Bridge Company:

"The Kenwood Bridge Company, 417 First National Bank Building, Chicago; works at 77th Street and Anthony Avenue. Steel railroad and highway bridges and steel buildings. Annual capacity 10,000 tons."

Would that statement affect your views any?"

A. No, sir; I think that is exaggerated.

Q. You do not agree with the authority?

A. No, sir.

MR. COLTON: I am not sure the witness knows the date you are asking about.

MR. SEVERANCE: 1903. This is a directory that came out January 1, 1903. It says corrected to January, 1903. It says that on the title page.

By MR. SEVERANCE:

Q. Take the Wisconsin Bridge & Iron Company of Milwaukee.

A. Yes, sir.

Q. Have they been competitors of yours for a long time?

A. Yes, they have.

Q. They were back in 1900, were they?

A. Yes, sir.

Q. Where do they do business?

A. Principally in the West.

Q. Take the Joliet Bridge & Iron Company, North Collins Street, Joliet, Illinois.

A. I do not know a thing about them.

Q. I call your attention to the statement in this book at page 20.

MR. DICKINSON: You objected to my reading that.

MR. SEVERANCE: But this is cross-examination.

MR. DICKINSON: Yes, it is cross-examination. Cross-examination is one thing and reading from a book is another thing.

MR. SEVERANCE: I am combining the two.

MR. DICKINSON: I understand, but I object to your reading from the book because you objected to my reading from it.

MR. SEVERANCE: The objection will be entered.

By MR. SEVERANCE:

Q. Would the fact that it appears at page 20 of this directory, from which Judge Dickinson was examining you, that the Joliet Bridge & Iron Company, North Collins Street, Joliet, manufacture railroad and highway bridges, iron and steel buildings, have an annual capacity of 10,000 tons, and also make riveted pipe, tanks and so forth, shake your opinion as to whether they were competitors of yours?

MR. DICKINSON: What time, now, are you referring to?

MR. SEVERANCE: The book for 1903 and corrected to January 1, 1903.

MR. DICKINSON: You mean would the fact that it appears in that book for 1903 shake his statement that they were not competitors in 1900?

MR. SEVERANCE: No; competitors at that time.

MR. DICKINSON: I never asked him if they were competitors in 1903.

MR. SEVERANCE: I have asked him.

MR. DICKINSON: Did you understand that you were being asked about competitors in 1903?

THE WITNESS: Yes.

MR. DICKINSON: All right, then.

By MR. SEVERANCE:

Q. What is your answer to the question?

A. It does not.

Q. Brown-Ketcham Iron Works, Indianapolis?

A. Yes.

Q. Competitors of yours?

A. Yes, sir.

Q. And have been for many years?

A. Yes.

Q. It is a very large concern, is it not?

A. Fairly large, yes.

Q. What is your opinion, from your observation, as to their annual output?

A. At what time?

Q. Now.

A. Now?

Q. Well, within the last two or three years, any time within the last two or three years.

A. Well, I should say they had an output of probably 24,000 tons.

Q. How much?

A. 24,000 to 30,000 tons.

Q. Would the fact that the following entry appears in this book, corrected to January 1st, 1903, at page 19, "Brown-Ketcham Iron Works, Indianapolis, Railroad and highway bridges and iron and steel buildings. Annual capacity 45,000

tons. Also make architectural ornamental and iron work" affect your views as to the amount of their tonnage?

A. No, sir.

Q. You do not think they had so much tonnage?

A. I am certain of it—not certain of it, but I am quite positive they did not.

Q. You think they have more tonnage now than they had in 1903?

A. I think they have.

Q. Have they a plant additional to the one at Indianapolis?

A. They subsequently built one at Greensburg.

Q. Where is that?

A. Near Pittsburg.

Q. You mean to say their total output of both plants is only 30,000 or 40,000 tons?

A. They are out of business; they failed.

Q. When did they fail?

A. I think the last year.

Q. Well, I asked you for the last two or three years?

A. I do not know how much they got out at Greensburg.

Q. Do you know the Rarig Engineering Company?

A. Never heard of them.

Q. Would the fact that on page 18 of this book there appears the following entry, "Rarig Engineering Company, Fifth Avenue, east of Alum creek, Columbus, Railroad and highway bridges and iron and steel buildings. Annual capacity, 15,000 tons. Also builds engines, boilers, tanks, etc." affect your view?

A. No, sir.

Q. It would not affect your view at all?

A. No, sir.

Q. You still feel certain that they were not large enough to be competitors of yours either in 1900 or 1903, or at any time?

A. I feel certain they were not competitors.

Q. And are not yet?

A. And are not yet.

Q. And never have been?

A. And never have been.

Q. That is, you feel then that they did not have 15,000 tons capacity?

A. I do.

Q. Because if they had had anything over 10,000 tons you would think they were competitors?

A. I think I would have heard of them.

Q. You never heard of them?

A. Never heard of them.

Q. Have you heard of the Brackett Bridge Company, of Cincinnati?

A. If I have it was very indefinite.

Q. You never regarded them as competitors of yours?

A. I did not.

Q. Would the fact that it appears on page 15 of this book that the Brackett Bridge Company, Atlas Bank Building, Cincinnati, Works at Glendale, railroad and highway bridges, iron and steel buildings, annual capacity 10,000 tons, have any effect upon your judgment?

A. It would not.

Q. Are you acquainted with the Carolina Bridge & Steel Company, of Burlington, North Carolina?

A. I never heard of them.

Q. You build bridges in North Carolina, do you not?

A. I do not know that we have, but we could.

Q. Of course, you could, but you said you built on the line of the Southern Railway and the Atlantic Coast Line.

A. I am not sure they were in that State.

Q. But they were in that general region?

A. Yes, sir.

Q. Which would be tributary to a bridge company in North Carolina?

A. Yes, sir.

Q. Would your judgment of this company be changed any by the fact that it appears on page 17 of this book that the Carolina Bridge & Steel Company of Burlington, North Carolina, making steel railroad and highway bridges, had an annual capacity of 10,000 tons?

A. No, sir.

Q. You never heard of them?

A. Never heard of them.

Q. What about the West Virginia Bridge & Construction Company, of Wheeling?

A. They are out of business.

Q. Did you know of them at any time?

A. Yes, sir.

Q. Were they a competitor of yours while they were in business?

A. For a short while.

Q. You testified with reference to the Schuylkill Bridge Works this morning, that that was a brokerage concern at one time, did you not?

A. I think so, yes, sir.

Q. Did they not afterwards acquire a plant?

A. Yes, sir.

Q. At what place?

A. Pottstown, Pennsylvania.

Q. And after acquiring that plant did they come in competition with you?

A. Yes, sir.

Q. And with these other companies, the Bridge Company and others?

A. Yes, sir.

Q. And they still are competitors?

A. Yes, sir.

Q. The Penn Bridge Works I think you spoke of this morning, did you not?

A. I do not know whether I did or not. There is such a concern.

Q. And it is a competitor of yours?

A. Yes, sir.

MR. SEVERANCE: Did you intend to ask him for each one of these, Judge, or did you skip some of them?

MR. DICKINSON: Some of them I skipped, and some of them had gone into the American Bridge Company, and had references back to another page. Some of them I skipped until I got to a certain point. After the objection was raised I read them right along.

MR. SEVERANCE: That is what I thought, that you did for a while.

By MR. SEVERANCE:

Q. Do you know the Columbia Bridge Company, of Pittsburgh?

A. They are out of business.

Q. When did they go out of business?

A. Several years ago.

Q. Do you know the Raritan Steel Company?

A. No, sir, I do not.

Q. Never heard of them?

A. I do not think I have; I may have.

Q. Do you know Milliken Brothers?

A. Yes, sir.

Q. That was a very large concern, was it not?

A. When?

Q. It was previous to the time it went into the hands of a receiver—it was a very large concern, was it not?

A. Yes, sir.

Q. For a good many years?

A. It was not very large in 1900.

Q. How large was it then?

A. I think they had a capacity of about 12,000 tons.

Q. Was it increased after that?

A. Yes, sir.

Q. And were they reorganized after their receivership?

A. I do not know what process they went through.

Q. You do not know whether they were reorganized or not?

A. No, sir.

Q. You are not familiar with it?

A. No, sir.

Q. How large was it at the time they failed, do you know?

A. I should say it was 36,000 tons.

Q. In what year did they fail, do you remember?

A. I do not recall.

Q. Was it not at the time of the panic in 1907 that they failed?

A. Well, it was about that time.

Q. It was growing out of the financial troubles at that time, was it not?

A. Yes, sir.

MR. LINDABURY: It was previous to that.

MR. DICKINSON: Do you know anything about that?

THE WITNESS: Milliken Brothers?

MR. DICKINSON: I mean when they failed.

THE WITNESS: I do not know, no, sir.

MR. LINDABURY: It was of course in the newspapers.

MR. DICKINSON: I object to the statement.

MR. LINDABURY: He was a competitor of all these companies. Certainly he knows.

MR. DICKINSON: The witness has stated that he did not know, and I do not think it is proper for you to say he does know, when he says he does not. He is speaking under oath and I do not think that is a proper comment on the witness' testimony.

MR. LINDABURY: I beg your pardon. If he said that I did not hear it.

MR. DICKINSON: Did you not say you did not know?

THE WITNESS: I do not know when they did fail.

MR. LINDABURY: It is such common knowledge here that it did not occur to me there was any impropriety in making the remark.

By MR. SEVERANCE:

Q. Did Judge Dickinson ask you this morning about the Boston Bridge Works?

A. I do not recall whether he asked me or not.

Q. Do you know about them?

A. Yes, sir.

Q. They are competitors of yours?

A. Yes, sir.

Q. And have been for many years?

A. Yes, sir.

Q. What did you say was their output in 1900, or could you not give an estimate?

A. Yes; I do not think they had an output of over 7,000 or 8,000 tons.

Q. Did they get up to about 15,000 tons in 1903 or 1904?

A. I do not think they ever got up to 15,000 tons.

Q. Are they still in business?

A. They are still in business.

Q. Do you know what their output is now?

A. I think it is about 8,000 tons.

Q. Would the fact that this book that Judge Dickinson was examining you from has the following entry on page 12, "Boston Bridge Works, Incorporated, 47 Winter Street, Boston. Works at Cambridge. Railroad and highway bridges, and iron and steel buildings. Annual capacity 15,000 tons: Also make railroad turn-tables, traveling cranes, etc." modify your opinion?

A. No, sir.

Q. The New England Structural Company. Did you testify as to that this morning?

A. I do not know whether I did or not.

Q. You know of them, do you not?

A. I have heard of them indefinitely.

Q. Were they not competitors of yours?

A. I never considered them so.

Q. Would the fact that on page 13 of this book it appears as follows, "New England Structural Company, 110 State Street, Boston; works on Second Street, Everett; railroad and highway bridges and iron and steel buildings, annual capacity 17,000 tons" affect your view?

A. No, sir.

Q. They may have been in competition with some of those companies down in New England and that fact not have [illegible] to your knowledge?

A. Yes, sir.

Q. Is not that true?

A. They may have been.

Q. And that is true as to these other companies I have asked you about, and that you said you did not find to be competitors of yours; they may have been competitors of other concerns, some of the smaller plants that belonged to the American Bridge Company, and others?

A. It is not probable that they were competitors in the class of work that we were after, because——

JUDGE DICKINSON: Have you finished your answer?

THE WITNESS: Yes sir.

By Mr. Severance:

Q. Will you give me a list of the competitors of the Berlin Iron Bridge Company of East Berlin, Connecticut?

A. A list of the competitors?

Q. Yes.

A. When?

Q. In 1900.

A. I suppose the Boston Bridge Works and the Shiffler Bridge Company——

Q. Which one was that?

A. The Shiffler Bridge Company—practically all the concerns were competitors of the Berlin Bridge Company in small building work.

Q. We do not understand "practically all." That does not mean anything. What concerns were there that were competitors? Would you be able to give a complete list?

A. I could not give you a complete list.

Q. Is it not quite likely that there are many companies up in New England, some of which you said you did not know of, in competition with them?

A. It is very likely.

Q. You remember this morning Judge Dickinson asked you about some companies in Worcester and Springfield, if I remember correctly?

A. Yes, sir.

Q. You said you did not know about them?

A. Yes, sir.

Q. You did not know whether or not those companies existed?

A. Yes, sir.

Q. They would be natural competitors of the Berlin Company, would they not, in certain classes of work, if they did exist?

A. Yes, sir.

Q. So in giving the answers you did give this morning, when you said that you did not know of these companies—I think that was your expression—you did not intend by that to convey the idea that there were no companies competitive with those concerns that were taken over by the Bridge Company?

A. No, sir; I did not.

Q. You did not intend to say that those companies which were read off to you, and as to which you said you did not know, were not competitors of some of the plants of the Bridge Company, did you?

A. I simply intended to testify that they were not competitors of the Shiffler Bridge Company.

Q. That is what I thought. In making up the estimate that you gave this morning, or your opinion, that at the time the American Bridge Company was formed it absorbed about 75 per cent of the output of this class of work—that was your statement this morning—you did not take into account the business that was done by these various companies that you did not know about, did you?

A. No, sir.

Q. And you know nothing as to the percentage of the total business of the country done by those companies that had not come to your notice?

A. I know nothing about them.

Q. That estimate is not based on published statistics, is it?

A. No, sir.

Q. You stated that it was your own view from what had come under your observation in bidding for jobs?

A. Yes, sir.

Q. You stated this morning that was not based on statistics?

A. I did.

Q. Of any sort?

A. Yes.

Q. It was merely your opinion from what you had observed?

A. Yes, sir; from what figures I would collect myself from my own observation.

Q. From your own observations?

A. Yes, sir.

Q. Did any of the plants that were purchased by the American Bridge Company have rolling mills, except the Pencoyd plant, or do you not know about that?

A. I think not.

Q. You do not know?

A. The Keystone Bridge Company was a part of the Carnegie Steel Company. They had one.

Q. That was a separate corporation, was it not?

A. I am not sure about that?

Q. Besides those two, were there any other plants which had rolling mills?

A. The North Works, Illinois,—I guess that did not go into the Steel Corporation.

Q. Do you know of any others?

A. That is all I can recall.

Q. They took the steel and fabricated it, just as you did?

A. Yes, sir.

MR. SEVERANCE: That is all.

REDIRECT EXAMINATION.

By MR. DICKINSON:

Q. Mr. Marshall, you were asked about the increase in the capital of your company from $10,000 to $3,500,000. State whether or not that whole $3,500,000 was earned by your company within the time it was put in, or whether it was contributed from outside sources?

A. Both.

Q. Part of it was from outside sources?

A. Yes, sir.

Q. It did not represent entirely the earnings within that period?

A. No, sir.

Q. You were asked about the increase from 18,000 tons in 1900 to 101,000 tons in 1911. I will ask you whether or not there has not been a general increase during that time in the volume of the business done in the entire country?

A. Oh, yes.

Q. Do you know any other of these companies that you have mentioned that increased within that period in the same proportion that your company did?

A. I do not.

Q. You mentioned several companies, I believe, that in your judgment had not increased at all?

A. Yes, sir.

Q. You said that you had done some work for the Union Steel Company and the Sharon Steel Company. When was that work done?

A. Early in 1901, 1902, or 1903—somewhere along there.

Q. State whether or not that was before they were taken over by the United States Steel Corporation?

A. It was.

Q. It is stated at the head of these statistics, in this book from which Mr. Severance read: "The capacity, when given, has been furnished by the operators and is in gross tons of 2240 pounds." Does that change the answers or views which you have expressed in any respect or has it any bearing upon the views you have expressed?

A. No, sir.

Q. What class of work did you have in mind for which you said the Shiffler Company and the McClintic Marshall Company were competitors?

A. Railroad bridges, highway bridges of large tonnage, and miscellaneous structural steel work of a fair amount of tonnage.

Q. Was that or not a class of business that was generally competed for by the larger class of fabricators?

A. Part of it was and part of it was not.

Q. What part was not?

A. The various bridge companies each generally had a class of work that they specialized on. There were not many of the large bridge companies that were after contracts of small tonnage.

Q. Now what do you mean by contracts of small tonnage?

A. Anything under 100 tons, or two or three hundred tons.

Q. What class of work would that cover?

A. That would cover small railroad bridges and small buildings.

Q. Was that within the class of work that you competed for?

A. Yes, sir.

Q. It was?

A. Yes, sir.

Q. In addition to the large railroad bridges and structural buildings?

A. Yes, sir.

MR. LINDABURY: I do not think you understood the witness, Judge, or that the witness understood you.

MR. DICKINSON: (to the stenographer): Now read those questions, will you, to the witness, as well as the answers.

(The stenographer read the questions and answers as follows:)

"Q. What class of work would that cover?

"A. That would cover small railroad bridges and small buildings.

"Q. Was that within the class of work that you competed for?

"A. Yes, sir.

"Q. It was?

"A. Yes, sir.

"Q. In addition to the large railroad bridges and structural buildings?

"A. Yes, sir."

By MR. DICKINSON:

Q. What class of work did you mean to embrace in the classes which you said that the Shiffler Company competed for?

A. The Shiffler Bridge Company competed for fairly large sized bridge work of all kinds, and their specialty was rolling mill buildings.

Q. The McClintic Marshall Company. What class of work did you say they competed for?

A. For any class of work that has any tonnage of any magnitude.

Q. Of what magnitude?

A. Anything that had over 200 or 300 tons in it.

Q. In 1900, when the Shiffler Company was competing for interstate business, it was on the class of work you have just mentioned, was it?

A. Yes, sir.

Q. Who did you say were your competitors for that class of work? Just name them, please?

A. In 1900?

Q. Yes, in 1900.

A. Shall I name them?

Q. I want you to name them, yes.

A. The Pencoyd, Edge Moor, Keystone, King, Berlin Bridge Company.

Q. Roberts? Oh, the Pencoyd; you mentioned that.

MR. SEVERANCE: I object to leading the witness.

By MR. DICKINSON:

Q. State whether or not the Lassig Bridge Company was one of the competitors?

MR. SEVERANCE: I object to that. You have asked this witness to state these names, and now you are telling him what to say.

MR. DICKINSON: I am not telling him what to say. I am asking him whether or not he remembers that that concern was a competitor in that class of work.

MR. SEVERANCE: I object to counsel listing the names of the companies concerning which he put this question.

MR. DICKINSON: I will ask the stenographer to repeat the question.

(The stenographer repeated the question as follows:)

"Q. State whether or not the Lassig Bridge Company was one of the competitors?"

By MR. DICKINSON:

Q. Answer that, please?

A. They were.

MR. DICKINSON: That is all.

RECROSS EXAMINATION,

By MR. SEVERANCE:

Q. What was the tonnage, according to the best of your information, of the American Bridge Company at the time it was organized?

A. About 500,000 tons.

Q. And how much has that been increased? What was the tonnage of the American Bridge Company last year?

A. Do you mean the output?

Q. Yes.

A. I think the output was 580,000 or 590,000 tons.

Q. The increase, then, was about 80,000 or 90,000 tons?

A. Yes; that was the increase in the output, not the capacity.

Q. I am speaking of the output. The increase in the output of the American Bridge Company, according to your best information, was from about 500,000 tons at the time it was organized to 580,000 tons last year?

A. Yes, sir.

Q. And the increase of your company during the same period was from 18,000 tons to over 100,000 tons?

A. Yes, sir.

Q. And is it not a fact that the consumption of this fabricated product in the country just about doubled during that period?

A. No, sir.

Q. Is not that your information, that the total consumption was about twice what it had been?

A. It is very much larger than it was.

Q. Then the increase of the American Bridge Company was about 16 per cent. and the increase in your company was several hundred per cent?

A. Yes, sir.

Q. During that period named?

A. Yes, sir.

Q. You are unable to state what the increase in the consumption of the country was?

A. I do not know, sir.

Q. It is a fact, however, is it not, that has come under your observation, that the American Bridge Company has not at the present time as large a percentage of the total output as it had in 1900?

A. I think it has pretty nearly.

Q. Pretty nearly?

A. Yes.

Q. You do not think, though, it has as large a percentage as it had in 1900?

A. No; I do not think it has.

MR. SEVERANCE: That is all.

MR. DICKINSON: That is all, and we are much obliged to you.

CHARLES PAGE PERIN,

called as a witness in behalf of the United States, being first duly sworn, testified as follows:

DIRECT EXAMINATION,

By MR. DICKINSON:

Q. Where do you live?

A. New York.

Q. What is your age?

A. Fifty years.

Q. In what business are you now engaged?

A. As consulting engineer.

Q. With what specialties?

A. Coal and iron deposits.

Q. Coal and iron properties?

A. Yes.

Q. How long have you been engaged in that business?

A. About 27 years.

Q. State whether or not you were educated for that work or have taken it up since then?

A. I have followed that profession continuously since leaving college.

Q. What college?

A. Harvard.

Q. Are you a graduate of Harvard?

A. Yes, sir.

Q. What time did you leave college?

A. I graduated from the Academic Department in 1883 and studied afterwards in the scientific school at Cambridge, and also at the Ecole des Mines in Paris.

Q. What is the special course of instruction at the Ecole des Mines?

A. The origin of ore deposits.

Q. Have you had any practical experience in the construction and operation of blast furnaces and plants, and in the manufacture of steel and iron?

A. Yes, sir.

Q. What positions have you held in connection with the practical operation of such furnaces?

A. I began my experience in Alabama at the Oxmoor Furnaces, as fireman, and I have held every position about the blast furnace from fireman to proprietor.

Q. Where is the Oxmoor Furnace?

A. Seven miles below Birmingham.

Q. State whether you have constructed, as engineer, any blast furnaces, and if so, where?

A. I built the Ashland No. 2 furnace; I rebuilt Middlesboro No. 1 and No. 2.

Q. Where is that?

A. Middlesboro, Kentucky.

Q. Near Cumberland Gap?

A. Yes, just across from the Gap. I rebuilt the Embreeville Furnace.

Q. Have you had any experience in locating coal and iron properties and examining into and determining their character and the uses of minerals for manufacturing purposes?

A. Yes, sir.

Q. In this country?

A. Both in this country and abroad.

Q. How long have you been engaged in that kind of work?

A. Fourteen years.

Q. Have you made any original examinations of unexplored properties of the country?

A. I conducted a survey across India, from Bombay to Calcutta, in regions not then known to carry iron deposits. Also in Siberia on the Baravinski Steppe.

Q. I am asking you now as of 1907, and not since that time, so unless I specify please understand the inquiry is addressed as of that period. What were the principal ore bodies, of ore which was available according to the then known state of the art of production and economic use in the United States?

A. The Lake Superior District, treated broadly as a district. That includes the various ranges there.

Q. What are those ranges?

A. They were actively operating in 1907 the Missabe, the Gogebic, and the Michigan Peninsula.

Q. What were they called, what ranges?

A. The Marquette, the Menominee, the Vermilion——

Q. Where is the Vermilion?

A. The Vermilion is next to the Missabe, only a short distance from the Missabe.

Q. In what direction?

A. If my memory serves me it is southwest.

Q. You have spoken of the ranges in Minnesota and Michigan. Did either of those extend into Wisconsin?

A. No; the Minnesota range did not extend into Wisconsin. There were some deposits in Wisconsin, in the Bariboo region. There were also known deposits around Lake Champlain, which formed the source of raw material for eastern furnaces. There were deposits in Canada which were operated to a small extent.

Q. Go on, will you?

A. There were deposits that formed the supply for the Colorado Fuel & Iron Company, located in Wyoming, and also in Colorado. They are now getting part of their raw material from New Mexico.

Q. I am not speaking of the present time. I am speaking of 1907.

A. They were known, but they were not then in active exploitation.

Q. You have spoken of the northern ores. Have you mentioned the southern ores yet?

A. Alabama, the Birmingham District; there are also a number of brown ore deposits throughout Virginia operated to supply the blast furnaces of Virginia.

Q. State whether, with those exceptions, there were any other large ore beds which at that time were commercially available for making pig iron economically in the United States, outside of where you have mentioned?

A. There were isolated deposits in New Jersey that were a source of a certain tonnage of pig iron.

Q. Any large ore beds outside of those you have mentioned?

A. I cannot say whether the Texas deposits at that time would be said to be known. They were not in operation, at any rate; they were not then being mined on any extensive scale.

Q. Were there no furnaces located there?

A. Yes; there were two small blast furnaces, charcoal furnaces, in the State of Texas.

Q. What was their capacity?

A. I forget for the moment; but the two together made about 30,000 tons a year.

Q. Were there any large ore beds outside of those which you have mentioned in the Minnesota region and the Birmingham District which could be worked and made into pig iron at a profit in competition with those two ore beds that you have mentioned—I mean in Michigan and Birmingham?

A. And Minnesota also, you mean?

Q. I mentioned Minnesota. Minnesota and Michigan, yes?

A. No; except in the case of local markets, such as in Central Virginia and New Jersey and parts of Pennsylvania.

Q. Were you or were you not ever called upon in connection with any other persons to make a survey of the Birmingham District with a view to determining the amount and character of the iron and coal properties in that region, and, if so, state when it was and who were associated with you and the purpose for which you undertook the work?

A. In 1904 I was a member of what was known as the Appraisal Commission, and we examined, not the whole Birmingham District, but we examined only the deposits of iron and coal owned by the Tennessee Coal, Iron & Railroad Company, the Sloss Sheffield Coal & Iron Company and the Republic Iron & Steel Company.

Q. Who were associated with you in that work?

A. There were associated with me T. H. Aldrich, who was Chairman of the Commission, Mr. J. W. Worthington, Mr. Walter Moore, Mr. Given and myself. I think we composed the commission.

Q. I will ask you whether or not you recall Mr. Aldrich's name?

A. I stated Mr. Aldrich was the Chairman of the Commission.

Q. What was the purpose you had in view?

A. The competition among these three companies had been so severe in the matter of the sale of pig iron that an effort was made to bring them together in some sort of combination, and there was such a diversity of opinion as to the relative value of each property that an effort was made by the then owners to ascertain the values of those three corporations.

Q. Did or did not this involve an examination into the volume?

A. There was no effort made to get at an appraisal of the money value of their plants, but it was a question of the number of tons of coal and of iron ore each company held.

Q. You looked into the extent of their properties?

A. The extent of their properties only.

Q. The iron ore. State how you proceeded with that work. Did you do the work?

A. We were about six months on this work, examining about a half million acres of land.

Q. What methods did you pursue and what was done?

A. The maps of each company were submitted to this committee and the mines examined; bore hole records were submitted and an estimate was made of the workable tonnage each company had, and this estimate was recorded in a report which has been published and filed with our testimony before the Stanley Committee.

Q. There is printed here a copy of that report, and counsel for the other side have agreed that this copy may be used as if it were the original, subject to exceptions for relevancy and competency, and also subject to correction. Please examine that report and state whether or not that is a copy of it.

A. Yes sir; this is a copy.

MR. DICKINSON: I offer that in evidence under the agreement as stated.

(The paper so identified, was thereupon offered in evidence and marked "Government's Exhibit Perin No. 90, May 22, 1912.")

By Mr. Dickinson:

Q. Have you a copy there of the report?

A. Yes, sir.

Q. You may use that, if you please. What does that set forth as the holdings at that time, that is, May 25th, 1904, of the Tennessee Coal, Iron & Railroad Company in ore and coal properties, as to the extent of each.

Mr. Reed: Is not the report itself the best evidence of that?

Mr. Dickinson: Yes; I think it is probably, but I wanted to get the figures here in a statement.

Mr. Reed: You have just offered the report itself in evidence, so that the figures go in that way.

By Mr. Dickinson:

Q. I will ask you, Mr. Perin, what does that show to be the tonnage of iron ore properties owned at that time?

A. Of all kinds, it shows 412,798,500 tons.

Q. Of all kinds of ore?

A. Of all kinds of iron ore; and 1,623,639,500 tons of coal.

Q. Where were those iron ores located in reference to Birmingham?

A. The Birmingham District proper contained the major part of all of the red ore, and the brown ores were contained in Georgia and in Southern Alabama——not southern Alabama rather, but outside of the Birmingham District proper.

Q. What you call the Birmingham District proper would include what radius?

A. At the time of our examination it was considered to be about 15 miles, or a little bit more than that, from Irondale to Sparks Gap; today the district is considerably longer and larger.

Q. You say the red ore was situated within that district, that is, within about 16 miles of Birmingham?

A. Yes.

Q. And what is the volume given there of the red ore?

A. 398,686,100 tons.

Q. State whether or not that report correctly sets forth the results of the investigation made, and whether you believe

the same was a corect statement of the holdings at the time of the Tennessee Coal, Iron & Railroad Company of the classes of properties set out in the report?

A. Well, the object of the report was to determine the relative holdings of each company, and I presume the percentage of error is the same in each one. Later developments, I mean bore-holes, have determined acerage which was not then considered merchantable or in existence even, and more careful studies by the Geological Survey in 1906, two years after this report was made, would alter these figures very materially. They are substantially accurate as to the relation between the Sloss-Sheffield Coal & Iron Company, the Republic Iron & Steel Company and the Tennessee Company only.

Q. What figures, then, would you give, say as of 1907, as the holdings of the Tennessee Coal, Iron & Railroad Company in the several districts, the Birmingham district and the other districts, of iron ore?

MR. REED: I object to that until the witness is shown to be familiar with the situation in 1907.

By MR. DICKINSON:

Q. Are you familiar with that section of the country?

A. I am reasonably familiar with that section of the country, yes.

Q. Just state what your familiarity with it is, and what knowledge of it you have?

A. I was commissioned in 1906 to purchase the lands of the Tutweiler Coal & Iron Company for the Birmingham Coal & Iron Company, and I purchased their iron ore holdings and coal holdings; purchased the lands of the Morris estate, the Hilman estate, and the State of Alabama, making up the coal area belonging to the Birmingham Coal & Iron Company. In that purchase of the coal area we were obliged to take in the blast furnace belonging to that company, and that necessitated a study of the iron ore holdings which belonged to the Tutweiler Coal & Iron Company.

Q. State whether or not you became generally acquainted with the iron ore deposits in that section of the country, and are generally acquainted with them?

A. I did, but I cannot say that the additions to the hold-

ings of the Tennessee Company as between 1904 and 1907 would be known to me.

Q. What would you give, as near as you can from the information and knowledge you have, as their total holdings as of 1907?

MR. REED: I am sure, Judge Dickinson, that Mr. Perin does not want to be put in the position of an expert as to matters that are shown to be after he left the district, and after he had made his examination of the Tennessee Company's property.

MR. DICKINSON: But he says he went back there after that and did go into the district.

MR. REED: To examine properties of other companies.

THE WITNESS: Adjacent to it.

MR. REED: He does not want to be misrepresented, I am sure.

By MR DICKINSON:

Q. Do you know approximately the volume of ores held at that time by the Tennessee Coal, Iron & Railroad Company? If so, please state it?

A. I do not know what they held; I knew what they held in 1904. It was aproximately 412,000,000 tons.

Q. You state that to be approximately correct as of that time?

A. As of that time, from the information before the Commission.

Q. You spoke of the Birmingham District as being about 16 miles. These other ores are brown ores, are they?

A. Yes, sir.

Q. How far did they lie from Birmingham?

A. Down at Tenna Hill, in the lower end of the valley; and they had some at Champion.

Q. Where do they lie?

A. Champion is probably outside the twenty-five mile limit, but there was a uniform freight rate on all furnace materials within twenty-five miles.

Q. What other raw materials besides iron were in that radius?

A. Both the coal and the limestone.

MR. REED: Judge, I do not think you got Mr. Perin's answer to that question asking him to define the Birmingham District as it was considered in 1904. He said 16 miles in length, and you, in asking this question have assumed he said within a radius of 16 miles.

By MR. DICKINSON:

Q. Have you finished answering the question as to where the other ores were?

A. If you will change the nature of your question I can give you a clearer answer to it. I think it is confusing.

MR. DICKINSON: Read the question.

(The stenographer read back the testimony on this point.)

MR. DICKINSON: Just strike that out. There is no objection to that, is there?

MR. REED: No.

By MR. DICKINSON:

Q. How far did these other ores lie from Birmingham?

A. The Tennessee Company owned iron ores in Georgia, which are between 75 and 100 miles distant from Birmingham; they also owned brown ores, both north and south of Birmingham within a radius of 25 miles.

Q. You spoke of the Birmingham district as being 16 miles. What do you mean by that?

A. I spoke of the investigation in 1904 having covered an area between Irondale, or Gate City and Sparks Gap, approximately 15 miles or 16 miles; perhaps a little more; the exact mileage I had not in mind. But between those two points the development had been most active, and there was the greatest knowledge of the deposits.

Q. Within 16 miles of Birmingham lies, as I understand, a large body of red ore and coal and limestone?

A. Yes, sir.

Q. And these are the main ingredients used for making pig iron, are they not?

A. Yes, sir.

Q. Now, Mr. Perin, state whether or not from your acquaintance with other sections of the United States you know of any section where all the elements which combine in the production of iron are in such close juxtaposition as they are in the Birmingham District?

A. There are no other known deposits of iron ore, coal and limestone in similar juxtaposition in this country or in any other country.

Q. What effect does that have upon the cost of production of pig iron?

A. It results in a reduction of the cost of assembling those elements, and consequently a lower cost of production.

Q. Is the cost of transportation to the point where they are consumed reduced?

A. That is what I mean when I say the assembling cost; the bringing of those elements to a common point where they may be reduced.

Q. Is that an important factor in cost?

A. It is most important.

Q. Is there any other section of the United States, where with machinery and furnaces of like capacity, where iron can be produced as cheaply as it can in the Birmingham district?

MR. REED: That is objected to until the witness is shown to have some knowledge of the cost of operations there at the present time.

By MR. DICKINSON:

Q. Did you have any knowledge of the cost of operation, or the general question of the cost of operation, resulting from the relative situation of coal and iron ore and limestone at that time?

MR. REED: At what time?

MR. DICKINSON: In 1907?

A. I think so. I was consulting engineer for the Birmingham Coal & Iron Company.

By MR. DICKINSON:

Q. State whether or not in 1907 there was any section of

the United States where pig iron, with machinery of equal character and facilities of equal character, in the way of machinery and furnaces, could be made as cheaply as it could in the Birmingham District?

A. No. Pardon me for suggesting it, but if your question were put the other way, that if you introduced into the Birmingham district machinery equal to any other point, you would bring out what you want more clearly. What I mean is if they had machinery in the Birmingham District which was up to what it is in these other districts.

Q. That is the reason I put the question as I did, that if the machinery there were of like character with machinery elsewhere; in other words, the machinery being the same, would not these other advantages enable them to make iron cheaper there than in any other part of the United States. Now, do you understand the question?

A. They would be able to produce cheaper there than anywhere else.

MR. REED: Is not that a trifle speculative?

By MR. DICKINSON:

Q. Is it speculative, or do you know?

A. I should think it was almost a mathematical conclusion.

Q. What percentage of the red ore within the Birmingham District was owned by the Tennessee Coal, Iron & Railroad Company, in 1907?

MR. REED: That is objected to because the witness has not been shown to be qualified on that point, and has stated that he is not competent.

MR. DICKINSON: I do not recall that he has stated that he is not competent.

By MR. DICKINSON:

Q. Do you know where the red ores lay in 1907 in respect to the Birmingham District?

A. Yes, sir.

Q. Do you know who owned them?

A. I know who owned them in 1904, and who owned a part in 1907, and I have no reason to believe that the ownership had

changed, but I do not know the exact proportion which the T. C. & I. held of the total in 1907.

Q. In 1904 what proportion did they hold?

A. According to the district we took we estimated that they held about 70 per cent of the district as then defined; that is to say from Irondale to Sparks Gap.

Q. State whether or not, outside of the holdings of the Tennessee Coal, Iron and Railroad Company, in 1907, and the Woodward Company, and the Sloss Company and the Republic Iron Company, there were any large bodies of iron ore lying together in the Birmingham District which were available for sale or purchase by any one going into the manufacture of iron.

MR. REED: Do you mean in 1904?

MR. DICKINSON: 1907.

A. None that I know of.

By MR. DICKINSON:

Q. State whether or not you looked over the field about that time.

A. I was in the field in 1905, 1906 and 1907, with a view of the purchase of iron ores in the two first years, 1905 and 1906.

Q. Assuming, Mr. Perin, that equal facilities in the way of furnaces and other works for the production of iron in the Birmingham District and at Pittsburg, what, in 1907, would have been the relative cost of producing pig iron at those two places? That is, if one had been cheaper than the other, which would have been cheaper, and about how much a ton?

MR. REED: That is objected to as calling for a speculative answer.

A. I presume the actual difference was about $4.

MR. REED: I object to the witness's statement of his presumption as to cost, and I object further on the ground that he is not shown to be competent to testify to the cost of making pig iron in Pittsburg.

By MR. DICKINSON:

Q. Do you know anything about the cost of producing iron in Pittsburg?

A. I have seen the cost sheets of several independent furnaces there and talked it over with those who were in the iron business.

Q. And you were informed as to the cost?

A. I was.

Q. Were you informed as to the cost, approximately, of producing it in the Birmingham district at that time?

A. I was.

Q. What would you say was the difference, assuming that the machinery was just the same and the furnaces were of the same character?

A. You are assuming that the furnaces were of the same character. You see that fact did not exist. They were not.

Q. Taking them as they were, if you know, state what the difference was.

A. As they were, comparing the two plants, the difference was about $4.

Q. Were the plants in Birmingham equal in character to the others?

A. They were not.

Q. If they had been equal, would the difference have been still larger in favor of Birmingham?

MR. REED: That is objected to as calling for a speculative answer.

A. No, sir. The difference would have been less in favor of Birmingham.

By MR. DICKINSON:

Q. You mean that the Birmingham machinery was susuperior?

A. Inferior.

Q. It was inferior?

A. Yes.

Q. If the Birmingham machinery was inferior at that time, and there was $4 difference, suppose the Birmingham machinery had been brought up to the state of perfection of the

Pittsburg machinery, then would the difference have been less?

A. I should have said greater.

MR. SEVERANCE: I think you misunderstood his answer. I understood him to say that if the machinery in the Birmingham district was brought up to the level of that in the Pittsburg district, on account of the cost of assembling the ore and different elements being less, they could make pig iron for $4 less in Birmingham.

By MR. DICKINSON:

Q. Did you mean that?

A. I meant the present difference is $4 a ton, that is the difference in 1907 between the two plants. That is what I have in mind.

Q. But with the machinery equal—

A. There should be a wider spread.

Q. In favor of Birmingham?

A. In favor of Birmingham.

MR. DICKINSON: That is what I understood him to say, Mr. Severance.

(Whereupon, at 3:55 o'clock p. m., an adjournment was taken until to-morrow, Thursday, May 23, 1912, at 10:15 o'clock a. m.)

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1916 [redacted] 1919
1917

No. 481 [redacted] 1656

THE UNITED STATES OF AMERICA, APPELLANT,

vs.

UNITED STATES STEEL CORPORATION ET AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF NEW JERSEY.

VOLUME 3.

PLAINTIFF'S TESTIMONY.

FILED MAY 12, 1916.

(25292)

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TWELFTH DAY.

Room 720 Custom House,
New York, N. Y.

Thursday, May 23, 1912.

The hearing was resumed at 10:15 o'clock a. m. before Special Examiner John Arthur Brown.

Appearances the same as heretofore noted.

CHARLES PAGE PERIN,

the witness under examination when the adjournment was taken, resumed the stand.

DIRECT EXAMINATION (Continued)

By Mr. Dickinson:

Q. Mr. Perin, you were questioned as to an examination made by you and others in 1904 upon which this report which is in evidence was based. Please state whether or not you made a subsequent examination of the coal and iron properties of the Tennessee Coal, Iron & Railroad Company; and if so, at what time and at whose instance, and the object and the character of the examination; and if you arrived at any estimate of the extent of the coal and ore properties, state what it was.

A. About the time Mr. Leonard C. Hanna and his associate Mr. Gates and Mr. Oglebay and Mr. Grant B. Schley bought the Tennessee Coal, Iron & Railroad control, I was asked to go down there and go over the properties; and I made a report to Mr. L. C. Hanna in, I think, 1906.

The object of that report was to recommend such things as seemed best to the engineers who were a party to it, and also to advise as to what progress had been made in the plans between the time of the report of the appraisal committee in 1904 and the date of the purchase by these gentlemen; I think the date was 1906.

Q. Did or did not that involve, also, a report upon the extent of the properties?

A. It involved a verification of the property. It was substantially the same area of land which was examined by us in 1904.

Q. And the same volume of ore?

A. Practically there had been no change in the estimate of tonnage, so far as I know.

Q. This was made before they purchased, or for information with a view to their purchase?

A. For information with a view, I think, to determining how much money was to be provided for further development; for the proper development of the property.

Q. The estimate you made then corresponded with the estimate you have given of the tonnage of the ore and coal in 1904?

A. As to property. We did not go through and examine the area as we had before, but we took the records of the company; and, there being no changes in acreage, we assumed there was no change in tonnage except that which would result from the exhaustion of the mines during that period.

Q. State whether or not that would have made, within that time, any very material change in the amount.

A. The total percentage of reduction would have been very small.

MR. DICKINSON: That is all.

CROSS-EXAMINATION.

By MR. REED:

Q. At what time in 1906 did you make this second investigation, Mr. Perin?

A. I do not recall, sir, exactly. I think it was the early part of the year. I can look up my records and get a copy of that report written to Mr. Hanna.

Q. The purchase was made in the fall of 1905, was it not, by the Hanna-Schley-Topping syndicate?

A. I am not familiar with the exact date that they began their purchase of stock; whether they took control at that period or not I do not know.

Q. At any event, you made your second investigation very shortly after they took control?

A. Yes.

Q. Your principal purpose in making this second investigation was to report on the amount of money necessary to rehabilitate the plants, was it not?

A. And to make such suggestions as seemed wise based upon the observation of the field.

Q. So that the particular object of your study at that time was the blast furnaces, the coke works and the steel plant?

A. Yes. Questions of labor and water supply and other things entered into it.

Q. It is true, is it not, that you assumed that the report in 1904 was correct at that time, and that you took it as a basis?

A. Yes; we did.

Q. Without making a re-study of all of the land that was covered by that report?

A. That is correct.

Q. In this appraisal of 1904, I understood you to say that the purpose was to get the relative value of the three companies that it was proposed should be put into this suggested consolidation?

A. Yes, sir.

Q. That is, you were more concerned with the relative value than with their absolute value?

A. Yes, sir.

Q. I infer that from the fact that you did not make any estimate of the absolute value of these ore reserves.

A. No, sir. We never assigned any material value; but it was simply a percentage of the raw materials owned by the three companies.

Q. Those three companies were the Sloss, the Republic, and the Tennessee Coal & Iron Company, were they not?

A. Yes, sir.

Q. I infer, also, that it was a matter of no consequence if your appraisement was liberal, provided you were impartially liberal to all the three companies?

A. The idea being to have the same error going through all three of the estimates.

Q. Was this appraisal committee a partisan committee?

A. Yes, sir; I regret to say that it was more or less so.

Q. You have defined the district that was under consideration as being substantially that which lay between Irondale and Sparks Gap, have you not?

A. Yes, sir.

Q. Mr. Perin, did you have any access to the records of the other companies that were not under consideration at that time?

A. In 1904?

Q. Yes; in your 1904 work.

A. No, sir.

Q. In 1904, what other companies in this district owned reserves of any consequence?

A. The Tutweiler Coal, Coke & Iron Company, the Woodward Iron Company, and I think, another company called the Birmingham Ore Company, owning the Helen-Bess Mine. I do not know whether they were incorporated under that name at that time or not, but there was a deposit operated at the Helen-Bess mine that was owned by independents.

Q. The Woodward Iron Company was one of the most prosperous companies in the district, was it not?

A. Yes. It has the reputation of having paid 50 per cent dividends three or four years consecutively.

Q. And its ore and coal are very advantageously located, are they not?

A. Yes, sir.

Q. Its assembling costs are perhaps cheaper than those of any other company?

A. Yes, sir.

Q. You did not make any study of the ore reserves of that company, did you?

A. No, sir.

Q. Or any study of their records?

A. No, sir.

Q. Did you ever see Bulletin No. 400 of the United States Geological Survey?

A. I have, sir.

Q. Are you familiar with it?

A. Reasonably so. I have read it with some care, but it has been some time since I have studied it.

Q. When did the United States Geological Survey undertake that work that is shown in their bulletin No. 400?

A. I think their first work was in the latter part of 1904; but the main body of the work was done in 1906 and 1907, and the notes were not published until 1910, I think. That is the date of the publication of Bulletin No. 400, I think.

Q. The Geological Survey had access to the records of all the companies of that district, had it not?

A. Yes, sir.

Q. Can you tell us from recollection what district the Geological Survey studied as the Birmingham District?

A. I think they extended the area which we covered, possibly five miles further north, and four or five miles further south, along Red Mountain.

Q. Could you give us the names of the limits that they took?

A. If I may be allowed to refer to this map, I can do so.

Q. Please refer to it. What was the point at which they limited their study on the South?

A. Probably at Sand Mountain Gap or Chepultepec. That is the station where the railroad goes through.

Q. That is even south of Sparks Gap, is it not?

A. Yes; it must be five miles or more south of Sparks Gap.

Q. What was the point at which they limited their study on the north?

A. They go up as far as Vance, where the Alabama Great Southern cuts through the range, or a little beyond Vance.

Q. And they included all of the district between Chepultepec and Vance, did they?

A. Yes, sir.

Q. And how far back, to the southeastward, from the outcrop of the red ore, did they consider? In other words, what was the depth of their district?

MR. DICKINSON: Do you mean the width?

MR. REED: The width or the depth.

A. A distance from the outcrop of about one mile. 6,000 feet, I think, was the distance—a little over a mile.

By Mr. Reed:

Q. At that time, that is at the time that work was done, there was a theory, was there not, that the ores of Red Mountain pinched out after they reached a certain depth?

A. There has always been a theory that deposits of ore in the Clinton Horizon were lenticular in character, and it was expected that this ore as it went to the deep would gradually thin to unworkable ore.

Q. I must ask you to explain what you mean by the lenticular theory. Is it that as the ore goes deeper its cross section is like that of a wedge, and it finally ends in a point?

A. That is the theory that from a central maximum thickness it radiates in various directions, thinning generally as it goes to the deep; and that, as the conditions of its deposition change, it gradually thins down to the point of a wedge.

Q. You refer to Clinton ores. By that you mean ore of the variety that is known in the Birmingham District as red ore?

A. Yes.

Q. In Red Ore Mountain?

A. The Clinton ores are ores occurring in the Clinton Horizon, a division of Silurian rocks in which iron ore is found from Clinton, New York, to Alabama.

Mr. Dickinson: Upper or lower Silurian?

The Witness: These are lower Silurian.

By Mr. Reed:

Q. These Clinton ores are not peculiar to the Birmingham District, are they?

A. No, sir; they are found continuously from Birmingham to Chattanooga; from Chattanooga along the Cincinnati Southern to north of Knoxville, through parts of Pennsylvania; and, again, in northern New York.

Q. They occur also in Virginia, do they not?

A. No, except in the extreme western edge of Virginia. There are some at the corner of Virginia and Tennessee.

Q. They occur also in Nova Scotia, do they not?

A. Yes, sir.

Q. Is it not a fact that in that Bulletin No. 400 of the Geological Survey the estimate of the available tonnage of mer-

chantable ore in the Birmingham District is put at about 798,000,000 tons?

MR. DICKINSON: Excepted to on the ground that the bulletin itself is the best evidence of what it shows, and it is incompetent.

A. I do not recall the exact figures, but my recollection is that there were two estimates given, one the result of very careful scientific study which was about this figure, something less than 800,000,000 tons, and the original estimate made, I think, by Mr. Echols, of a billion tons.

By MR. REED:

Q. These estimates were all based on this lenticular theory of which you have spoken, were they not?

A. They were largely so, together with such other evidence as was given to them, in the shape of bore holes and mine measurements; outcrop measurements.

Q. Mr. Perin, if, as a matter of fact, subsequent developments in the District have proven that the lenticular theory is erroneous, and that the ores do not pinch out as they go deeper, that estimate made by the Geological Survey would have to be very much increased, would it not?

A. It would, sir.

Q. If, as a matter of fact, also, it were discovered by numerous bore holes at Shades Mountain that the ore continued both in thickness and in quality as far as Shades Mountain at least, the estimate would have to be very largely increased, would it not?

A. It would. All the figures previously made would be vitiated by those later discoveries.

Q. And if, also, it were discovered that the pitch or scope of this ore seam was very much lessened as one went to the eastward, that would increase the ease with which the ore could be mined, would it not?

A. To a moderate degree.

Q. That is to say, it would be a less distance under the surface of Shades Valley?

A. A slightly shorter shaft would reach the ore, and the operating expense would be something less.

Q. It was the survey which was reported in Bulletin 400 of which you spoke yesterday, I presume, when you said more careful studies by the Geological Survey in 1906, two years after this report was made, might alter your figures very materially. It was of that report you spoke, was it not?

A. Yes, sir.

MR. DICKINSON: From what page are you reading.

MR. REED: Page 2027.

By MR. REED:

Q. In your report of 1904 and in this Geological Survey of 1906, the ores on the eastern side of Shades Valley were not considered at all, were they? They were not known at all, as a matter of fact.

A. Yes; there were two bore holes from which contradictory results, I believe, had been obtained, one indicating a rather thin ore section, which seemed to substantiate the theory that that ore did pinch out as it went to the deep; and on account of the results obtained from those bore holes, all our calculations were cut off at a certain distance from the outcrop, but what that distance was I do not recall exactly.

Q. The evidence given you by these two bore holes was not sufficient to warrant you, as conservative men, in figuring ore underlying the eastern part of Shades Valley?

A. We were at that time disposed to disregard the tonnage said to be in that vicinity.

Q. I want to come now to the matter of the relative value of these southern ores and the northern ores. What is the average percentage of ore considered merchantable in the Birmingham district, speaking of red ore now?

A. About 36 to 37 per cent metallic iron.

Q. That means that in weight, with the ore dried of its free moisture—

A. At 212, yes.

Q. At 212 degrees Fahrenheit 36 to 37 per cent of its weight is metallic iron?

A. Yes, sir.

Q. What is the average of metallic iron in dry ore considered merchantable in the Lake Superior district?

A. I presume today it is about between 52 and 55.

Q. And speaking roughly then it requires three tons of southern ore to produce a ton of iron as against two tons of northern ore?

A. In round figures, yes.

Q. And, of course, the quantity of fuel required to smelt either ore is, I presume, approximately the same, is that not correct?

A. The quantity of fuel required to make a ton of iron, do you mean?

Q. No; the quantity of fuel required to smelt a ton of ore is approximately the same.

A. No; the proportion of fuel consumed is not as 2 is to 3. The average northern consumption, I think, would be about a ton, and I think Mr. Crawford is doing about a ton and a quarter in the Birmingham district.

MR. DICKINSON: Do you mean to smelt a ton of ore, or to make a ton of pig iron?

MR. REED: I mean to smelt a ton of ore, but the witness answers the question on the basis of making a ton of pig iron.

THE WITNESS: There is no way that I could give you the record of the amount of fuel used to smelt a ton of ore, as it is always treated from the standpoint of the unit of pig iron, and the estimate is made in terms of consumption to a ton of pig iron.

By MR. REED:

Q. To produce one ton of pig iron in the South you say now requires about one and one-quarter tons of coke?

A. Yes.

Q. Was the practice as good as that in 1904, when you made your investigation?

A. No, sir.

Q. How much coke was required for a ton of iron then?

A. About 1.6 or 1.7 tons.

Q. There has been a distinct improvement in the practice meanwhile?

A. Very marked.

Q. While we are on that subject, Mr. Perin, it is apparent, is it not, that the percentage of iron required to constitute

a merchantable ore has constantly diminished in the Lake Superior district?

A. Yes.

Q. And ores of a percentage that was not enough to make them merchantable ten years ago are considered merchantable now?

A. Yes, sir.

Q. The trend is toward constantly decreasing percentages?

A. Yes, sir; due to two causes: First, to the diminution in the high-grade ore, and, secondly, to improved practice which makes it permissible to use ores carrying less iron.

Q. Is the relative value of the northern and the southern ores affected at all by matters of climate?

A. Judged by the commercial results of the operations in the South, I should say it is. That is to say, a man's efficiency in the summer time in a steel works is considerably less than in the cooler weather in the North.

Q. In all this world, Mr. Perin, how many blast furnaces and steel plants are there that are farther south than the Birmingham furnaces.

A. I know of none, except in India, where at the Barraepur Iron Works there are four blast furnaces that have been in operation for ten or fifteen years; and at the works where Mr. Kennedy and I have been associated where they have two blast furnaces and steel works.

Q. They are both in India, are they not?

A. They are both in India. They are about the same height above sea-level as Birmingham; about 600 feet; 575 to be accurate.

Q. As a result of that difference in labor efficiency. I infer that it costs more to smelt a ton of iron in Birmingham than it would under exactly the same conditions, if Birmingham were located at the latitude of Pittsburg?

A. I do not know that I would say it costs more to smelt the iron, but the general results of operation are that a greater inefficiency of labor means a relatively higher cost.

Q. That is what I mean: the labor cost per ton of pig iron is greater?

A. It is greater.

Q. It is greater than it would be if it were in a more favorable climate?

A. It is.

Q. That has a tendency to diminish the value of ores located in such districts, has it not?

A. It diminishes the value of any metallurgical operation there.

Q. You said yesterday that there was a difference, you thought, of about $4 per ton in the cost of making pig iron at Birmingham and at Pittsburg. When you made your study of the district in 1904, were the Sloss and the Republic and the Tennessee Coal & Iron Companies in a prosperous condition?

A. No, sir. The object of this report was to try to promote a situation which would enable them to earn their interest charges.

Q. This low cost of making pig iron had not resulted in prosperity to the companies that made it?

A. It had not; no, sir.

Q. Was that difference partly due to the fact that the pig when made was worth less in Birmingham than it was in Pittsburg?

A. There was no market for pig iron in Birmingham, except in the foundries of the United States Cast Iron Pipe Company and one or two other local foundries. There was a very limited local consumption, in comparison with the production of the district.

Q. That is the point I wanted to ask you about. How many steel works are there in the South that consume pig iron?

A. Two or three at the present time—south of the Ohio River, you mean?

Q. Yes.

A. No, there are three, one in Atlanta, where they use scrap solely, the Atlanta Steel Hoop Company I think and the Southern Steel Company's plant at Gadsden, which is a four-furnace open hearth plant.

Q. They have four open hearth furnaces at Gadsden?

A. Yes; I believe they have since built another; there may be five now.

Q. How many furnaces are there at Atlanta?

A. Two, I think.

Q. There are two open hearth furnaces there?

A. Yes.

Q. And then the Steel Works?

A. The Steel Works of the Tennessee Coal, Iron & Railroad Company at Birmingham.

Q. At this Atlanta plant do they use pig iron in their open hearth furnaces?

A. No, it is exclusively a scrap furnace, and of very small dimensions; the tonnage is small.

Q. Then there are only two steel works south of the Ohio River that use pig iron in their operations?

A. Yes, sir.

Q. What other consumers of pig iron are there in the South?

A. None of magnitude, except the cast iron pipe industry.

Q. That has foundries at Birmingham, has it?

A. At Birmingham and Anniston and Chattanooga, and at Lynchburg, Virginia. I think that is about all. I do not know of any other important plants.

Q. Has the demand for pig iron in the South increased materially in the last ten years?

A. In the form of pig iron, no. There has been a large increase in the demand for steel and steel products, and the substitution of steel for cast iron has actually resulted in a diminution in the local consumption of cast iron, except in the case of the pipe foundries. They have increased their output. Other foundries have diminished their output, but the net result is an almost constant figure for I should say, the last six years, perhaps. I may be wrong about that. I have not the exact data on that.

Q. In the last six years, or thereabouts, it is your impression that the total consumption of pig iron has remained about stationary?

A. Nearly constant.

Q. But does the South consume all of the pig iron it makes?

A. No, sir; only a small proportion of it.

Q. About what proportion of its production of pig iron has to be sent north?

A. In this do you include the States of Tennessee, Alabama and Virginia?

Q. I am speaking particularly of the Birmingham District now.

MR. DICKINSON: What do you mean by north? North of the Ohio River?

MR. REED: North of the Ohio River.

A. I should say that that is 50 per cent, if not more.

By MR. REED:

Q. At least 50 per cent of the Birmingham pig iron has to be sent north to find a market?

A. Yes. That is exclusive of the iron now consumed in the steel works of the T. C. I. Company.

Q. Do you happen to know what the freight rate on pig iron is from Birmingham to Pittsburg?

A. $4.25, is it not?

Q. My information is that it is $4.90.

A. Is not that the Chicago rate?

Q. I asked you as to the rate from Birmingham to Pittsburg.

A. $4.90. That is right.

Q. What is the rate from Birmingham to Chicago?

A. $4.35.

Q. Now, what is the rate from Birmingham to Cincinnati?

A. $3.25

By MR. DICKINSON:

Q. How much did you say those rates were?

A. To Chicago $4.35, and to Cincinnati $3.25.

By MR. REED:

Q. With these southern ores it is possible to produce only basic pig, is it not?

A. Yes, sir.

Q. There are some products of steel that cannot be satisfactorily made from basic pig, are there not?

A. I will not say that they cannot—there are some that are not.

Q. It has been found, has it not, that merchant pipe cannot be made satisfactorily from basic pig?

A. I do not know that to be a fact, sir. Basic open hearth furnaces are supposed to have a very wide range of product, and if the time and intelligence is spent upon it which is necessary, I think you can do almost anything with basic steel. The main question is one of cost.

Q. Of course, I meant within the range of reasonable cost. There is another point that may have a bearing on this low cost in the South, Mr. Perin, about which I would like information, and that is as to the method of keeping cost sheets at the southern furnaces. Were their accountings of cost conservative?

A. No, sir; they have never been considered as even proper, much less conservative.

Q. If the same rigid accounting were adopted at the southern furnaces as has been adopted in Pittsburg and in Chicago, would the cost of making pig iron at Birmingham appear to be as low as it has appeared in the past, in your opinion?

MR. DICKINSON: That is excepted to because it is not shown that this witness had any familiarity with the cost sheets, or what particular cost sheets are referred to, or what particular years are referred to.

A. No, sir.

By MR. REED:

Q. You have had some experience with costs and accountings of both southern and northern furnaces, have you not?

A. Yes, sir.

Q. You have had an opportunity to contrast the methods adopted in the two districts?

A. Yes, sir.

Q. And over what years does your experience extend?

A. In the Birmingham District from 1895 to 1906; in the north from 1890 down to the present time. The principal point of difference comes in the fact that most of the Southern furnaces own their own iron ore, and in the north they do not; or, if they do, the ores are charged to the furnaces at the open market price, and in the South the ores are charged

to the furnace at the cost of production, with occasionally a small allowance for depreciation of the ore property.

Q. Where three tons of ore are used in making one ton of pig iron that has an important bearing on the matter of cost, has it not?

A. Exactly.

Q. In allowances for depreciation of plant are the southern accountants as liberal as the northern accountants?

A. They never have been, possibly by reason of the fact that their profits have been so small that they could have shown no profit if they had made a heavy write-off.

Q. Then, Mr. Perin, to sum it up, with the apparent difference in cost of production quite absorbed by the high freight rate to the northern market, where it is necessary to send the pig iron to sell it, the operation of blast furnaces in Alabama is not the bonanza that it might seem?

A. There are one or two successful plants whose great natural advantages have enabled them to live, but the majority of the furnaces have not been profitable for the last ten years.

Q. The Woodward company is the most prosperous in Alabama, is it not?

A. Conspicuously so.

Q. A word as to the ore reserves in other states, about which you spoke on your direct examination. The Clinton ores, you told us, are found in Tennessee?

A. Yes, sir.

Q. And they are being mined and smelted at different points in Tennessee?

A. And Rockwood, Tennessee.

Q. The brown ores are also found in Tennessee, are they not?

A. Yes, sir.

Q. And are being operated at the present time?

A. Yes, sir; in middle Tennessee there is, I think, a total of six blast furnaces, two of which are in operation at the present time, running exclusively on brown ores.

Q. In Virginia there are a number of scattered operations, are there not?

A. Yes, sir.

Q. In Pennsylvania Clinton ores occur?

A. Yes, sir.

Q. And are being used to some extent now?

A. Yes. I do not know of any furnace running exclusively on Clinton ore in Pennsylvaia. There is, at Clinton, New York, however, a blast furnace that operates upon Clinton ores in the State of New York.

Q. The Pennsylvania Steel Company uses some Pennsylvania ores?

A. I believe so, but I am not familiar with the sources of their raw material, except Cuba.

Q. I was coming to that. There are large deposits of ore in Northern New Jersey, are there not?

A. There are said to be.

Q. And in the Adirondack and Lake Champlain Districts there are iron ores which are being mined and operated profitably today, are there not?

A. In the Lake Champlain District there are large operations; in the Adirondacks not yet, although there are large deposits of iron ore there.

Q. At Iron Mountain, in Missouri, also, there are deposits which have been for a long time mined and operated, are there not?

A. Yes, sir; they were thought to be worked out, but recent discoveries indicate that there is still further tonnage.

Q. In Wyoming there are large deposits too?

A. Yes, sir.

Q. The Colorado Fuel & Iron Company now draws part of its supply from that deposit?

A. Yes, sir; also from New Mexico.

Q. In southeastern Utah there are very large deposits?

A. Yes, sir.

Q. Of very rich ore?

A. It is said to be.

Q. Near the line of the San Pedro Railroad?

A. Yes, sir.

Q. In Texas what kind of ore do they find?

A. Large deposits of brown ore in Cass County, said to contain 500,000,000 tons.

Q. Are those ores considered to be presently available?

A. The plans of the railways entering the region are to open the ore, concentrate it, calcine it and ship it to eastern furnaces, Pennsylvania, Philadelphia, Norfolk and so forth.

Q. Have you, yourself, done any work recently on those ores?

A. I have been over the bore holes and the drill records and the analyses of some 3,000 shafts sunk in Cass County.

By Mr. Dickinson:

Q. 3,000 what?

A. 3,000 shafts, or test pits.

By Mr. Reed:

Q. That ore lies very near the surface?

A. Yes, sir; five to twenty feet down.

Q. Within five to twenty feet of the surface?

A. In some places it begins at the grass roots.

Q. You say there are believed to be about 500,000,000 tons there?

A. That is the present estimate.

Q. From whence do the furnaces on the Atlantic Seaboard draw most of their supply?

A. I suppose the largest tonnage comes from Cuba. That tonnage is shipped to Baltimore, Sparrows Point, the Maryland Steel Company, where they have four blast furnaces. There is a furnace which is south of Philadelphia, known as the Tidewater furnace, and the ore for that plant comes from Newfoundland and from Spain, and I think some from the Mediterranean ports.

Q. Where does the Bethlehem Steel Company derive its ore supply?

A. They now get a portion of their supply from the south coast of Cuba. They have recently made a large purchase in Sweden. They also have from time to time brought ore from various Spanish mines.

Q. Where does the Pennsylvania Steel Company of Steelton get its ore supply outside of the local shipments about which you spoke a short time ago?

A. They get a small amount of Lake ore and a large

amount from Cuba, from both the north and south coasts of Cuba.

Q. Is there ore on both the north and south coasts of Cuba?

A. Yes, sir.

Q. Are the deposits there of any size?

A. The north coast deposits are said to contain from one thousand million to one thousand five hundred million.

Q. That is a billion?

A. A billion to a billion and a half.

Q. Of tons?

A. Yes, sir; of the steam shovel ore; that is on the north coast. On the south coast the deposits are magnetic iron ore and are much more difficult to estimate, and I cannot give you any figures on the total tonnage in reserve.

Q. You yourself have made a study of the ores in Cuba, have you not?

A. I have.

Q. You have been in Cuba to examine them closely?

A. I went there for that purpose, yes, sir.

Q. Can it be said that the probability of future discovery is exhausted along the north shore where these cheaply mined ores are deposited?

A. No; I would like to be able to say so, because I am interested in the subject.

Q. Are those ores difficult to mine, those ores on the north shore of Cuba?

A. They can probably be mined and put into the car for five cents.

Q. Five cents a ton?

A. Yes, sir.

Q. That is cheaper than you can mine ore in any of the districts in the States, is it not?

A. Yes, sir. There is no stripping at all. They begin at the grass roots.

Q. How near the north coast of Cuba are those ores of which you have been speaking?

A. The ores of which I am now speaking are located three miles,—the ores belonging to the Moa Bay Iron Company are within three miles of Moa Bay.

Q. Is there a good harbor there?

A. Excellent.

Q. You mean these ores that can be mined for five cents a ton are within three miles of a good harbor?

A. Yes, sir.

Q. Mr. Perin, do you know the present freight rate by steamship on ore from Cuba to Atlantic ports?

A. 85 cents, and an allowance of 20 cents for unloading.

Q. That 20 cents comes out of the 85 cents, does it?

A. Yes.

Q. In other words, the 85 cents includes the cost of unloading?

A. Transferring from the boat to the cars or the dock.

MR. DICKINSON: Does he mean that makes a net 65 cents?

MR. REED: Net 65 on the steam ship.

THE WITNESS: Net 65 on the steamship. 20 cents, in the case of the Bethlehem Steel Company, is absorbed by the Reading Railroad which charges that much for their unloading plant charge at Port Richmond.

MR. DICKINSON: What does that make the rate there?

THE WITNESS: The total cost of transporting the ore from Cuba to the railroad cars is 85 cents, made up of 20 cents paid to the railroad for unloading and 65 cents paid to the vessel.

MR. LINDABURY: Putting on the cars?

THE WITNESS: They simply transfer direct from the vessel to the cars.

By MR. REED:

Q. From the vessel into the cars?

A. Yes, sir.

Q. There are ores similar to these Cuban ores found to some extent in Porto Rico and Yucatan are there not?

A. I have no accurate knowledge in reference to those ores.

Q. Do you know anything about the Brazilian ores?

A. Yes.

Q. What would you say as to the quantity of merchantable iron ore in Brazil in the deposits that have been studied?

A. I have had occasion to go over the reports of three engineers whom I know intimately and to examine the records submitted to possible purchasers.

MR. DICKINSON: I except to that. That would be based upon hearsay.

MR. LINDABURY: He has made a study of the subject he says.

MR. DICKINSON: No, he says he has simply examined reports of other people who have made a study of the subject.

MR. LINDABURY: That is all any expert does.

MR. DICKINSON: Then you would have to prove the qualifications of these other men.

THE WITNESS: One report was written by Mr. Grammer, former superintendent of the blast furnaces of the Carnegie Steel Company at Duquesne; a second report by Mr. Kilborne Scott, the most distinguished of the English mining engineers; a third report by Mr. Burnham. There was also a report by Mr. Sahlin—Julian Kennedy's partner. He went down recently to examine one of the large deposits for a German syndicate. Also the report by Mr. R. A. F. Penrose, considered one of the best of the American mining engineers.

By MR. REED:

Q. What can you tell us about the extent of those Brazilian deposits?

MR. DICKINSON: Excepted to as based on reports not made by the witness.

A. The three great deposits, those of Itabira da Campos, Itabira de Matto Dentro, and Puro Preto, contain an estimated tonnage exceeding two and a half billion tons.

By MR. REED:

Q. Where are those ores; are they near the coast?

A. Puro Preto, I understand, is 150 miles. The other two deposits are reached by a railroad about 320 miles long to the harbor of Rio. Puro Preto will go out by Victoria; the other deposits go down on the Amazon and into Rio harbor.

Q. As to the quality of those Brazilian ores, what do the analyses show, in iron content?

A. They are the richest known iron ores in the world. They are 69 per cent metallic iron and carry phosphorus in the third place of decimals.

Q. They are low in phosphorus?

A. Extremely low.

Q. Lower than the ores in this country?

A. We have nothing in this country comparable.

Q. Have you anything in this country comparable in iron content with those Brazilian ores?

A. In the early days I think the Minnesota Iron Company used to mine a little ore that was as rich as the Itabira deposits, but that was very soon exhausted.

Q. Nothing like any quantity of the same high-grade ores?

A. So far as known, it does not exist anywhere else in the world.

Q. So that to get a monopoly of the iron ore of this hemisphere is something of a task, is it not?

A. Yes, it would be. I understand that on the Rio Balsas on the west coast of Mexico, there is a large deposit which they anticipate bringing through the canal to eastern ports, that there is one single deposit there containing a hundred million tons of very high-grade ore. All Southern California is known to contain deposits of iron ore. At the mouth of the Orinoco in Venezuela there are large deposits of iron ore which have been studied by a number of different iron companies in this country.

Q. As to these Cuban deposits, I forgot to ask you what companies have bought extensively along the north shore of Cuba.

A. The Spanish-American Iron Company, a subsidiary of the Pennsylvania Steel Company was the first in the field and has the largest holdings.

Q. The Bethlehem Steel Company?

A. The Bethlehem Steel Company owns a deposit. The Eastern Steel Company; the Moa Bay Iron Company; and the Levisa Iron Company. The largest independent holdings are by the Moa Bay Iron Company.

Q. At about what figure do you put the tonnage controlled by the Spanish-American Iron Company, this Pennsylvania Steel Company subsidiary?

A. They have made a number of estimates which have appeared in bulletins of the American Institute of Mining Engineers, but I have forgotten their figures. Our own figures—I

speak for the Engineers of the Moa Bay Iron Company—have generally credited them with having in the neighborhood of five hundred million tons of merchantable ore.

Q. About how much has the Bethlehem Steel Company in Cuba? Has it upwards of 250,000,000 tons?

A. I am not sure as to their deposits. Their lands are in litigation. They have not a clear title to anything except their south coast deposit, which does not contain any such figure. In addition to these steel works which I named a moment ago, there are two other holdings; one body held by Messrs. Cole and associates, and still another by the United States Steel Corporation.

Q. I was coming to that. The United States Steel Corporation controls some on the north shore, does it not?

A. Yes. They are pretty well inland. They are some distance from the coast.

Q. How do their holdings in Cuba compare with those of the Pennsylvania Steel Company, for example?

A. They control a very small proportion of the tonnage.

Q. About what tonnage would you credit to the Steel Corporation?

A. I would credit them with less than 50,000,000 tons of actual merchantable ore.

Q. That is not as advantageously situated as the Pennsylvania Co.'s ores?

A. No; it is way back in the mountains and the erosion has cut very deep valleys there, so that a lot of their ore is in what they call cayitos, or little islands which will contain perhaps a million tons, and the cost of getting to it and extracting that tonnage would be so great as to permanently handicap the operations of the Steel Corporation as compared with those more advantageously situated.

Q. I neglected to ask you the tonnage controlled by the Eastern Steel Company in Cuba.

A. I do not recall exactly.

Q. A very considerable tonnage, is it not?

A. Quite a large tonnage.

Q. Mr. Perin, it is a fact, is it not, that some of the American furnaces have been importing ore from Sweden in recent years?

A. Yes. Mr. Schwab recently made a contract for 5,000,000 tons to be shipped from Sweden over a term of years.

Q. That is ore that he will use and is using at his Bethlehem Steel Works?

A. At the Bethlehem plant, yes, sir.

Q. The Bethlehem furnaces?

A. Yes.

Q. You said something in your direct examination yesterday about the physical condition of the plants at Birmingham, and I got the impression that you thought they were not in as good condition and not as well designed as the northern plants.

MR. DICKINSON: That was in 1904.

By MR. REED:

Q. In 1904. What is the fact as to that?

A. The best proof of it, I suppose, is the fact that the Steel Corporation, since their purchase of the Tennessee Coal, Iron & Railroad Company, have dismantled all of their old blast furnaces and replaced them with modern stacks; the Woodward Iron Company, since 1907, has built one new furnace and remodeled the other two, modernizing them; in 1906 and 1907 the Birmingham Coal & Iron Company built one new modern furnace. The Sloss furnaces in the City of Birmingham are very antiquated, and so are the North Birmingham furnaces of the Sloss company.

Q. You made a study of those plants, Mr. Perin, in 1906, did you not with a particular view of finding out how much it would cost to modernize them, and your studies were directed chiefly to the properties of the Tennessee Coal & Iron Company?

A. For Mr. Hanna, yes. The studies for Mr. Atkinson were in connection with the Birmingham Coal & Iron Company.

Q. Did you find the plants of the Tennessee Coal & Iron Company at that time, in 1906, to be modern, well designed plants, in good condition?

A. Well, a large sum of money had been spent since Mr. Bacon had taken charge, and he was gradually remodelling

the plants. Our suggestions were to do away with the old and wasteful bee-hive coke ovens, which has since been done. I think we advised a change in their whole labor system; the importation of labor directly through the port of Charleston, so as to get better labor than they had had in the past. We also occupied ourselves with the general question of the steel plant and the blast furnaces.

Q. The whole plant required rehabilitation, did it not?

A. Well, I think at the time our general estimate was that to bring it up to the basis of a northern plant, taking into consideration the large reserves in raw material, would require about $20,000,000.

Q. About $20,000,000?

A. Yes.

Q. In addition to what had been spent up to the time that you made your study in 1906?

A. Yes.

Q. Have you been familiar with what the Steel Corporation has done in that district since 1907?

A. In a very general way.

Q. Take its coke production, for one. Has any change been made in the method of producing coke?

A. There has been a very great advance in the manufacture of coke, due to the scientific treatment of the subject by the Steel Corporation and the diminution in the number of bee-hive ovens and increase in the number of by-product ovens; and in the preparation of the iron ore there has been a very great advance made, which has resulted in a decrease in the amount of coke per ton of iron.

Q. Let us take the production of coke first. What is the effect of the introduction of by-product coke ovens, such as have been put in there by the Steel Corporation, in the conservation of the coal supply?

A. There has been an enormous saving to the district. The bee-hive oven yield of coke was about 52 to 55 per cent; the by-product oven gives a yield of from 72 to 75 per cent of coke. This saving of 17 per cent results in a tremendous saving of the coal reserves to the Corporation and to the State itself. In addition to that, there is of course the saving of coal tar and ammonia and the preparation of commercial fer-

tilizer from this substance which has heretofore gone up in smoke.

Q. Then the introduction of these by-product ovens has had an important effect on the conservation of the natural resources of that district, has it not?

A. Tremendous.

Q. Has anything similar to that taken place in the iron ore mining?

A. Indirectly, yes.

Q. In other words, have the mining methods improved?

A. Yes, they have.

Q. That is, more of the iron ore of the seam is recovered than was recovered when you made your first study in 1904?

A. I understand so; and studies are being carried on with the view of conserving the lean ores so the entire vein will ultimately be saved, whereas in the past, ten feet of ore has been allowed to go to waste.

Q. That ought to have an effect on the conservation of the district's resources?

A. Tremendous.

Q. Then in the smelting of ores have any improvements been introduced by the Steel Corporation?

A. Their fine crushing of the iron ore has resulted in very great economy. The credit for that I think should be given to Mr. G. G. Crawford, who is the president of the company at Birmingham.

Q. He has been president, has he not, since 1907 of the Tennessee Coal, Iron & Railroad Company?

A. Yes.

Q. I infer, then, Mr. Perin, that the Steel Corporation has introduced a great number of economies throughout that district?

A. It has.

Q. Would you say its advent has been a benefit to the district?

A. A very great lesson to the iron industry of the South.

Q. As to labor conditions, Mr. Perin, has there been any change for the better or for the worse since 1907?

A. The wages have been uniformly higher, the conditions of labor have been better, and the welfare work probably rep-

resents the interest on perhaps three million dollars. That is to say, the amount of money spent in improving the condition of the laborers and the skilled mechanics, and the conditions at large generally in the Birmingham district.

Q. Spent by whom?

A. By the Tennessee Coal, Iron & Railroad Company.

Q. Since 1907?

A. Yes, sir.

Q. What company was the pioneer in that kind of work in Alabama?

A. The first realization of the desirability of better houses for men I think perhaps was due to Mr. Thomas of the Pioneer Iron Company, known as the Thomas furnaces, now belonging to the Republic Iron & Steel Company.

Q. What company was the first actually to introduce those reforms?

A. The Tennessee Coal, Iron & Railroad Company.

Q. And in that respect too would you say that its advent had been of benefit to the district?

A. I think that they have given all of the iron masters something to think about, and have put before them an example of better treatment of their men and of the desirability of increasing each man's self-respect and enabling him to earn more as well, increasing his real wages, as well as his money wages.

Q. When was this reform, if I may call it that, introduced?

A. I think it was begun by Bacon in a modest way and carried to a considerably higher degree by the Steel Corporation since 1907.

Q. The Steel Corporation has been constantly working on that line since it took hold?

A. They have gone very much further than Mr. Bacon did.

Q. Have the Steel Corporation's efforts in that way been constant since they took hold of the property in 1907?

A. As far as my knowledge goes, they have.

Q. My attention is called to the fact that yesterday in naming the principal ranges of this country and the ranges in the Lake Superior district, you said nothing about the Cay-

una Range, Mr. Perin. That is a range in Minnesota that was rather recently discovered, is it not?

A. Yes, sir.

Q. And it is being developed by interests altogether outside of the Steel Corporation?

A. Independent of the Steel Corporation, the Rogers Brown Iron Company and others that have no relationship to the Steel Corporation. I did not mention that range particularly, because I have no accurate information in regard to it and have heard adverse reports in regard to its future? Mr. Julian Kennedy, however, thinks there is a large tonnage there, and a company in which he is interested, the Rogers Brown Iron Company, have large holdings and are shipping ore from there. I think the product this year is estimated to be several million tons.

Q. That range lies almost due west of Duluth, does it not?

A. I think so.

Q. And within 50 or 60 miles of Duluth?

A. Yes; practically the same shipping rates as the other ores have.

Q. And it is well served by a number of railroads?

A. Yes.

Q. And just to complete that thought, the Steel Corporation's railroads do not go near the Cayuna Range, do they?

A. No, I think not.

Q. It is served by railroads entirely unconnected with the Steel Corporation?

A. Yes, sir.

Q. Can you name those railroads?

A. The Northern Pacific, and the Great Northern.

Q. And the Soo Line?

A. The Minneapolis and Sault Ste Marie. The Soo Line is building a dock, I believe, for the merchant furnaces at the present time.

Q. Where are they building that dock, at Duluth?

A. At Duluth.

By Mr. Severance:

Q. Are they building that dock at Duluth or Superior?

A. I think it is Duluth.

Q. One or the other?
A. One or the other.

By Mr. Reed:

Q. Duluth and Superior lie side by side?
A. They lie side by side, one at one side of the harbor and the other at the other.
Q. On the north shore of the Great Lakes there are a number of ore ranges, are there not?
A. Atikokan range has been prospected and the Corporation took more or less there. Lee, Higginson & Company—

Mr. Dickinson: What do you mean by "the corporation"?
The Witness: The Steel Corporation. There are one or two independent operations there, one owned, I believe, by Mr. Gates.

By Mr. Reed:

Q. Can you tell us anything about the work at Moose Mountain?
A. Nothing more than that there is a mine there owned by independents and they are planning to put in a gun valve kiln for further concentration of the ore.
Q. Mr. John W. Gates had interests up in that district, had he not?
A. He had. It is said to belong to his estate at the present time.
Q. And ore has been shipped from that Moose Mountain mine to the Republic Iron & Steel Company, has it not?
A. I do not know the consignees.

Mr. Dickinson: That is in Canada, is it?
Mr. Reed: In Canada, yes.
The Witness: Yes, sir.

By Mr. Reed:

Q. Ore is being brought also from Newfoundland to eastern furnaces, is it not?
A. Yes, sir; there is a large deposit at Belle Isle in Conception Bay and the east coast of Newfoundland jointly owned by the Dominion Iron & Steel Company and the Nova Scotia

Iron & Steel Company. The Nova Scotia Iron & Steel Company mine ore and sell it in the open market. A large tonnage is shipped annually to Philadelphia.

Q. What does the Dominion Iron & Steel Company do with their ore?

A. They smelt their ore in their own furnaces at Sydney.

Q. What other source of supply has the Dominion Iron & Steel Company besides this Belle Isle ore?

A. Small deposits of local ore which do not cut any large figure in their mixture. They also bring ore occasionally from Sweden, and they have access, during the open season of navigation, to the ore deposits of Labrador.

Q. I did not know that there was ore in Labrador.

A. Yes, sir.

Q. Does the Dominion Iron & Steel Company import Labrador ore?

A. They are said to have received a number of cargoes of ore from the coast of Labrador.

Q. Is it a fact that the Dominion Iron & Steel Company's cost of making pig iron is even lower than that of the Birmingham furnaces?

A. I understand their original paper cost shows they could make pig iron at the then alleged Birmingham costs, but actual experience had demonstrated that their history has been that of the Birmingham district.

Q. In other words, it was easier to find the profit on paper than it was to find it in the bank?

A. In the manufacture of iron and steel.

Q. And that was so at Birmingham, was it?

A. Yes, sir.

Q. Do you know about how many tons of iron ore were imported into this country from Cuba in 1910, Mr. Perin? Was it not about 1,400,000 tons?

A. I think 600,000 tons came from Cuba, or 800,000 tons from Cuba and the balance from foreign sources—Newfoundland. I have not the exact figures in memory.

Q. You would not say that the imports from Cuba would be as high as 1,450,000?

A. I cannot speak with any accurate knowledge on that subject. I understand and have been told that the Pennsyl-

vania Steel Company were using 50,000 tons a month of north coast Cuban ores, which would account for 600,000 from the northcoast. Then there are southcoast importations to Bethlehem and Pennsylvania Steel Company, which may account for 100,000 perhaps, so the Cuban importation may be in the neighborhood of a million tons at the present time.

Q. At that rate the ore reserves in Cuba will last for a thousand years, will they not?

A. Probably, yes, sir.

Q. And would you say that a figure of over 400,000 tons imported from Spain last year was out of the way?

A. I do not know that accurately enough to give an answer to that which would be worth while.

MR. REED: I think that is all.

REDIRECT EXAMINATION.

By MR. DICKINSON:

Q. Mr. Perin, when did you make the examinations that you said you made in Cuba upon which you based your statements as to the extent and character of those ores?

A. I think it was in August, 1909. However, I had my assistant in Cuba for three or four years, Mr. C. M. Weld, and I had the analytical work done to determine the percentage of iron in the ores, at Embryville, Tennessee, extending over quite a period. I have been consulting engineer for the Moa Iron Company.

Q. When did that begin?

A. I think that began about 1906.

Q. In 1906?

A. The Pennsylvania Steel Company began their investigation some time before that. They owned very large tonnage of ore prior to 1906.

Q. Prior to 1906?

A. Yes.

Q. How far does your knowledge of or acquaintance with Cuban ores as to their character and extent of deposits go back, previous to 1906?

A. No.

Q. So your knowledge begins with that time?

A. Yes.

Q. I will ask you whether or not Cuban ores were imported into this country to any appreciable extent at the time the Steel Corporation was formed.

A. Yes; I think that the Spanish-American Iron Company has been shipping their ores to Steelton, and the Juragua Iron Company has been shipping to Bethlehem for fifteen or twenty years.

Q. For their own consumption?

A. Yes.

Q. Do you know of those ores having been sold in the market here in competition with American ores previous to 1901, of your own knowledge?

A. No; I do not.

Q. You spoke about the ores from Labrador. When were those ores first shipped to this country, from your own personal knowledge?

A. I went to Labrador with a party in 1891. We went up to examine some iron ores first in Newfoundland, and afterwards on the Straits of Belle Isle. I do not think they were developed or any ores shipped from there until about 1900.

Q. To this country?

A. I do not know that they have been shipped to this country at all.

Q. Then you know of no ore from Labrador being shipped to the United States in competition with American ores previous to the time of the formation of the United States Steel Corporation?

A. I do not.

Q. You spoke of Newfoundland, Conception Bay ore. When were those ores, to your knowledge, first shipped to this country, if ever, in competition with American ores?

A. I do not recall the exact date, but I think they have been shipped here more or less intermittently since 1900.

Q. Since 1900?

A. Yes.

Q. To what extent, do you know?

A. The deposit is a very large one, and it outcrops at a very convenient point. The ore is mined and dumped into a pocket, from which there is a chute, and a ship comes along-

side of it, and the location of the spout allows of the ore being run down into the ship. They mine very cheaply. Their transportation facilities are excellent. That is to say, the ore is directly on the seaboard.

Q. Of what time are you speaking?

A. About 1900 or 1901.

Q. Do you know to what extent the ores were being mined in 1901, and to what extent they were being shipped to this country?

A. I cannot give you those figures.

Q. You do not undertake to say that there was any ore shipped in quantity to this country previous to the formation of the United States Steel Corporation?

A. The Chief Engineer was a friend of mine and told me of the development of the property. They began on a large scale.

Q. I am just asking you whether or not you have any knowledge?

A. I have no positive knowledge.

Q. Where is the Moose Mountain ore located?

A. It is located up near Port Arthur. I have forgotten the distance.

Q. When was the development of that ore begun?

A. The drillings went down twenty years ago. The determination of the extent of the ore——

Q. (Interrupting) When was it opened up and mined and shipped?

A. I cannot give you the date of that.

Q. Do you know whether or not any of it was shipped to this country prior to the formation of the United States Steel Corporation?

A. I do not know.

Q. When were the ores first shipped from the Atikokan Range?

A. I cannot give you the exact date.

Q. Give it as near as you can?

A. The ores were discovered there, and the diamond drillings done about 1892.

Q. Were ores shipped from there previous to 1900, to any extent?

A. I think not.

Q. Take the Cayuna Range ores; where are they?

A. Just west of Duluth, and that is a recent development.

Q. When was that development first made, if you know?

A. I think five years ago it was first known.

Q. Had the extent of those ores been ascertained and had their character been ascertained in 1900, that you know of?

A. No; I think not.

Q. There are ores pretty generally all over the world, are there not, of more or less range in quality?

A. Yes, sir; in variable quantity and quality, both.

Q. Varying from a merchantable and available character and quantity to a character that is not available; is not that a fact?

A. Yes, sir.

Q. You spoke of the great blessing that has come to the South, or the Birmingham District, from the developments and improvements there, and the money that has been spent by the United States Steel Corporation. That development has come from the expenditure of capital in works of industry, has it not?

A. Yes, sir.

Q. And the improvements incident to that?

A. Yes, sir.

Q. If the same capital had been expended to the same degree and with the same intelligence by some other company would not the same results have come?

MR. LINDABURY: I object to that as speculative.

MR. SEVERANCE: I think that is axiomatic?

A. No, not necessarily, because if the corporation depended wholly on the earnings of the Tennessee Coal, Iron & Railroad Company, it could not have continued to spend the money which the United States Steel Corporation has. In other words, there have been no profits from the operation of the Tennessee Company commensurate with the expenditures for heavier work and for future development. Therefore I say that no company other than the Steel Corporation could probably have done so much for the Birmingham District, unless it was one of some magnitude with other opera-

tions earning a sufficient sum to carry the interest on the high cost of this material which they now hold there.

Q. If anyone had been able to spend that amount of money in the same way would not the result have been the same?

A. Yes; identically; naturally.

Q. It does not come out of any peculiar qualities or characteristics of the United States Steel Corporation, does it?

A. It simply comes—I make the limitation as to any other corporation simply because the United States Steel Corporation is the only one in our country which owns other steel works out of which they can pay the losses which the Tennessee Coal, Iron & Railroad Company has been making up to the present time.

Q. It is the only concern in that character of business that is strong enough to do that particular thing?

A. Exactly.

Q. You say it has not derived any profits up to the present time. The expenditure was made, however, was it not, intelligently and in anticipation of profits?

A. I assume that it was.

Q. You do not suppose they spent it there merely to benefit the country?

A. I do not think their motives were wholly eleemosynary.

Q. You have spoken of the comparative leanness of the southern ores and the additional amount of coke necessary to make a ton of iron from the southern ores, the disadvantages of climate as regards the efficiency of labor, and also the difference in freight rate. I will ask whether or not, notwithstanding those differences, the southern Birmingham operators have been able to sell and have continued to sell their pig iron in northern markets in competition with other iron ores?

A. Yes. They have been crowded out of the Chicago market in the last two years.

Q. They have been crowded out?

A. Yes; by reason of the improved practices of the northern works, and the better plants.

Q. By reason of the superior character of the plants?

A. Largely so.

Q. Do they sell in other northern markets?

A. They have been driven farther south, and the Chicago market is practically closed to southern iron today. They are obliged to seek a market elsewhere.

Q. Notwithstanding those disadvantages of which you speak, the United States Steel Corporation has expended something like $20,000,000 developing that property?

A. I did not say that they had expended $20,000,000. I will say that they will have to spend $25,000,000 before they get through.

Q. They have spent a great many millions of dollars, have they?

A. I understand up to the present time there has been—I think somebody's testimony was—$13,000,000 expended.

Q. Those expenditures were begun by the syndicate that controlled the Tennessee Coal, Iron & Railroad Company, composed of Mr. Hanna and others, before that property was taken over by the United States Steel Corporation, were they not?

A. Yes, sir; they are said to have been about six million dollars.

Q. State whether or not the remodeling and improvements have been continued along the lines projected by them?

A. I think they have been on very much broader lines.

Q. Have they been continued on the lines they projected?

A. Yes, sir.

Q. You spoke of ore in Brazil. When did your knowledge in respect to those ores first begin?

A. About 1909.

Q. State whether or not any ores from Brazil were imported into the United States at the time the United States Steel Corporation was formed?

A. I think not; manganese ores were, but no iron ores.

Q. Were they in 1907?

A. I think not.

Q. When does your knowledge begin in regard to the Texas ores about which you spoke?

A. My general knowledge of them began about three years ago, in 1909.

Q. In what state of development were those ores then, for shipping to the market?

A. They were served by the Texas Pacific and the Atchison, Topeka & Santa Fe Railway, and there was not sufficient knowledge of their occurrence or confidence in the ultimate possibilities of the market to cause any development to be made.

Q. As a matter of fact they were not then being sold in the market?

A. No.

Q. None of those ores were being sold in the market?

A. No.

Q. You were asked, Mr. Perin, about the cost sheets of the Southern operators and the Pittsburg operators. Previous to that you had been asked as to the relative cost of producing a ton of pig iron in the Birmingham District and elsewhere in the United States, assuming that the machinery and facilities were just the same. Now, give us your opinion, as an expert, as to whether or not, with equal character of machinery and economic operation, a ton of pig iron could be produced at a less or greater expense in the Birmingham District than in any other part of the United States?

A. Assuming that methods of accounting were the same in each case?

Q. I am speaking of the actual cost?

A. I think the Birmingham District could produce more cheaply than any other point in the United States.

Q. To what do you attribute this?

A. It is due to the juxtaposition of the three materials entering into the manufacture of pig iron.

Q. And that would overcome any of its disadvantages?

A. As to quality and climatic conditions?

Q. As to quality, climatic conditions and labor?

A. Yes.

Q. You were asked about the South and the demand for iron and steel in the South. How long has your acquaintance with and knowledge of the economic conditions of the South existed?

A. Since 1887.

Q. I will ask you whether or not the main trouble was not the want of capital?

A. That is my own judgment about it.

Q. I will ask you whether or not since that time and as capital has been going into the South there has or has not been a steady increase in growth?

A. An enormous growth.

Q. As well as development in the South?

A. An enormous growth and development in manufacturing in agriculture, in mining, and in every branch of industry.

Q. Ultimately, with that growth going on as it has, what effect will that have upon the demand for southern irons and steel?

A. I have looked for the demand for pig iron in the foundry market to grow constantly less, and the substitution of steel for it will of course increase the demand for steel. I think the steel works in the South will ultimately have a local demand for everything they can put out.

Q. Is that a matter of steady increment now?

A. I think it is.

Q. Has the South been growing in prosperity?

A. Tremendously so; particularly in the last few years.

MR. REED: Particularly in what time?

THE WITNESS: In the last few years.

By MR. DICKINSON:

Q. And the growth has been steady, has it?

A. Yes, as shown by the records of the Southern Railroad and the Louisville & Nashville Railroad.

Q. Before the Civil War the South was largely an agricultural country, was it not?

A. Yes.

Q. And was developed very little so far as the iron industry was concerned?

A. Yes.

MR. REED: Do you want his personal knowledge?

MR. DICKINSON: Yes; I want him to state his knowledge in regard to that; but I will withdraw that question, if there is objection.

THE WITNESS: There was a small manufacture of iron in Virginia prior to the War, but practically nothing.

MR. DICKINSON: The Tredegar Iron Mills were in existence, I believe?

THE WITNESS: They were the only important works of the South.

MR. DICKINSON: That is all.

RECROSS EXAMINATION.

By MR. REED:

Q. Judge Dickinson asked you some questions about the importation of iron ore from Cuba into the United States prior to 1901. Have you seen the Bulletin of the United States Geological Survey, published in 1911, entitled "The production of iron ore, pig iron and steel in 1910", by Ernest F. Burchard?

A. I have seen it; but I cannot recall the figures with any degree of accuracy.

Q. You have read the pamphlet?

A. Yes.

Q. It is a recognized authority, is it?

A. It is.

Q. I call your attention to the figures in this pamphlet.

MR. DICKINSON: Are you asking him to refresh his memory, or are you going to put this in evidence?

MR. REED: I am asking him to refresh his memory.

MR. DICKINSON: He did not make a memorandum, and he can hardly say anything except to say that this shows it.

MR. REED: That is what I want.

MR. DICKINSON: I hardly think that is proper.

MR. SEVERANCE: This is published by your client, the United States.

MR. DICKINSON: I have no general retainer to defend the United States.

MR. REED: This is a pretty long pamphlet. We do not want to encumber the record by copying the whole thing.

MR. DICKINSON: I will agree to put in such parts as you want to put in.

By Mr. Reed:

Q. I call attention to the table at the top of page 22 of this pamphlet showing that the Juragua Iron Company Limited has been importing iron ore from Cuba to the United States constantly since 1884. Is that in accordance with your recollection?

A. It is my recollection of the figures.

Mr. Dickinson: The question is as to the fact

The Witness: Yes, as to the fact.

By Mr. Reed:

Q. What knowledge have you of the fact of importations prior to 1901?

A. None beyond acquaintance with the officers of the companies, and interest in the subject, having been at Bethlehem in the days when they received that ore, and having known more or less accurately of the fact that ore was moving from Cuba to the United States.

Q. You were in Bethlehem when they were using that Cuban ore, were you?

A. I was there in my early apprenticeship, and when I was assistant chemist at the Edgar Thomson Steel Works, at Braddock, Pennsylvania, I knew Cuban ores were coming in, as well as from Africa and other parts of the world.

Q. Have you any knowledge of the importations by the Spanish-American Iron Company for use in the Pennsylvania Steel Company's furnaces and the Maryland Steel Company's furnaces, from 1895 down to the present time?

A. I know that they have been very large shippers, and it has been an important source of supply for the Maryland Steel Company. That corporation probably could not have existed had it not owned Cuban ore deposits, as it had no other source of supply of raw material except foreign ore, and the variations in ocean freight rates made it extremely difficult for them to compete.

Mr. Dickinson: Are you undertaking to cover the period covered by those figures (indicating)?

The Witness: Since 1894.

Mr. Dickinson: Do you know the extent of the shipments?

THE WITNESS: No, I do not recall the extent, except it was an important part of the total burden of the Maryland Steel Company's furnaces.

BY MR. REED:

Q. And the Maryland Steel Company has been operating its furnaces since 1894 on imported ore?

A. Yes.

Q. Most of which has come from the Spanish-American Iron Company's holding in Cuba?

A. Yes.

Q. Do you know the size of their plant at Sparrows' Point?

A. Yes. It has four blast furnaces and a Bessemer plant and a rail mill, and then they have recently added an open hearth plant.

Q. About what number of tons per day is the capacity of those blast furnaces?

MR. DICKINSON: Now, or in 1894?

THE WITNESS: You mean now?

MR. REED: I am speaking of the first part of this period, from 1894 to 1900.

THE WITNESS: I think a thousand tons of pig iron, which would be about 2,000 tons a day of ore.

BY MR. REED:

Q. You mean all four?

A. All four. About 250 tons per day each. That estimate may be a little small.

Q. Take the Juragua Company. That is controlled by the Bethlehem Steel Company, is it not?

A. Yes.

Q. And that is the mining company through which the Bethlehem Steel Company operates in Cuba?

A. No. They have a subsidiary company known as the Bethlehem Iron Mines Company, which owns the ore on the north coast as well as all of the stock of the Juragua Iron Company.

Q. For whose benefit has the Juragua Iron Company been operating since 1894?

A. In 1894 it was jointly owned by the Bethlehem Iron Company and the Spanish-American Iron Company, and I think some independent holders. A few years ago Mr. Schwab exercised an option he had on it and bought out the interest of the Spanish-American Iron Company in the Juragua Iron Company, so that he owns the Juragua deposit entirely.

Q. Just to make sure that the point is covered—although I think your answers have already covered the point—it is a fact, is it not, that this Juragua Iron Company has been shipping into this country large quantities of iron ore every year since 1884?

A. My recollection is that their shipments have been continuous, and have varied from, perhaps, 30,000 or 40,000 tons, up to 300,000 tons a year.

Q. There has been no year since 1884, has there, when their shipments have been below 80,000 tons?

A. Not that I know of.

Q. And they have gone up to over 250,000 tons?

A. I cannot give you the exact figures, but my recollection is that it is approximately a thousand tons a day they have shipped from there—that much a working day.

Q. You told Judge Dickinson in redirect examination that with the same machinery—meaning the furnaces, I suppose, —the cost of making pig iron will be lower in Birmingham than it will be in the northern furnaces. That pig iron, when produced, will contain a large quantity of phosphorus, will it not?

A. Yes, sir.

Q. And the removal of that phosphorus is a tedious and expensive business, is it not?

A. Yes. I do not know whether you can say it is particularly tedious or expensive, but it takes additional time, and it costs more, perhaps, than if it were free from phosphorus.

Q. The presence of phosphorus, in other words, means added expense in the making of steel?

A. Yes.

Q. Is it possible, in view of that increased quantity of phosphorus, to produce steel more cheaply in Birmingham than it is to produce it in Pittsburg or in Chicago, using the same methods of cost accounting?

A. I should say the converting of pig iron on the same scale that it is converted in Pittsburg or Chicago would be cheaper per ton of steel in Birmingham, than it would be in Pittsburg.

Q. Conducting your operations on that scale which the demand in the South warrants, is it possible to make steel more cheaply there than at Pittsburg?

A. It has not been up to the present time; but a development of the southern demand would, of course, warrant a larger output.

Q. That depends entirely on how fast and how much the demand does grow in the South in the future?

A. Very largely, yes.

Q. The reason for that, I suppose, Mr. Perin, is that the demand in the North is sufficient to warrant production on a very large scale, which diminishes the overhead charges per ton of steel ingots produced?

A. Not only that, but you can operate in the North a large plant upon one product and introduce every possible economy. In the South there is no demand for a large tonnage of any one article, so that the output must be so diversified in order to get rid of a large tonnage of pig iron, your output of steel must be diversified, and in so doing you must necessarily run up the cost of your ton of steel.

Q. And the net result of that has been that notwithstanding the low cost of producing pig iron the cost per ton of steel ingots has, up to the present time, been as great as or greater than in Pittsburg or Chicago? Is not that the fact?

A. I am so informed. My information on that subject, however, is not very accurate.

REDIRECT EXAMINATION,

By Mr. Dickinson:

Q. What is the capacity of the works now being put in by the Tennessee Coal, Iron & Railroad Company? Are they large or small as compared with others in the country?

A. The recent furnaces are all modern and double the capacity of the former stacks. Even two and one half times the former capacity.

MR. REED: You are speaking of blast furnaces?

THE WITNESS: Yes.

By MR. DICKINSON:

Q. Are they built upon the present demand or future demand largely?

A. I think they are built with a very broad view to the future. I doubt if the local demand would consume the product of that plant wholly. I mean you would have to transport it some distance, I think.

Q. They are not built upon the basis of supplying the immediate demand at this time?

A. I think not.

Q. But with a view to the future?

A. I think so.

Q. You were asked about the shipments of ore by the Juragua Iron Company, Limited.

A. In the old days it was an independent company and furnished any blast furnaces with their product.

Q. When did that condition cease?

A. I think about 1907, or possibly before that. I do not know the exact date.

Q. And under what control did it come then?

A. Under that of Mr. Schwab, the Bethlehem Steel Company.

Q. They were not selling then, in the market?

A. No, not after his acquisition.

Q. The Spanish-American Iron Company?

A. That was for some years an independent ore company, and later acquired by the Pennsylvania Steel Company.

Q. At what time?

A. I cannot give you the exact date.

Q. Do you know approximately?

A. No, I do not.

MR. DICKINSON: That is all, Mr. Perin.

JOHN STEVENSON, JR.,

called as a witness by the United States, being first duly sworn, testified as follows:

DIRECT EXAMINATION,

By Mr. Colton:

Q. How old are you?

A. I was 65 years old my last birthday.

Q. How long have you been in the steel and iron business?

A. All my life. All my business life, I mean.

Q. Where did you begin in the steel and iron business?

A. In Scotland, originally, as an apprentice boy.

Q. In what sort of works were you in Scotland?

A. Machine shop and engineering works.

Q. When you came to this country where did you go?

A. To Pittsburg.

Q. With what company?

A. MacIntosh, Hemphill & Company of Pittsburg.

Q. And subsequently with what company?

A. Carnegie, McCandless & Company.

Q. With what works of the Carnegie Company were you connected?

A. The Edgar Thomson Steel Works, the rail mill.

Q. During what period was that?

A. I went there in March, 1875, I think, as assistant engineer in the building of the works.

Q. Which works were those?

A. The Edgar Thomson Steel Works, they were called; named after Edgar Thomson, the President of the Pennsylvania Railroad Company.

Q. Briefly, state what you did between 1878 and 1890?

A. I left the Edgar Thomson Steel Works and started in business on my own account, making machinery first of all. Then I went to New Castle, Pennsylvania.

Q. At what time did you go to New Castle?

A. About 1884, I think.

Q. What did you do at New Castle in the way of establishing steel works, or otherwise?

A. I started a factory there to make wire nails and wire.

Q. What was that company known as?

A. The New Castle Wire Nail Company.

Q. What other companies, if any, did you establish at that place?

A. To get nearer the fountain source we built a rod mill, bye and bye, when we had made a little of our profits and some other money, and then from that we built steel works later on.

Q. Were the steel works a part of the New Castle plant, or had they a different name?

A. They had a different name, but the important members were stockholders in the wire nail company.

Q. What was the name of the steel company?

A. The Shenango Valley Steel Company.

Q. What products did the Shenango Valley Steel Company manufacture?

A. It made pig iron and steel billets; Bessemer steel billets.

Q. Anything else?

A. It made a little money.

Q. But other steel products. Did it make tin plate, tin plate bars or sheet steel bars?

A. Yes, largely. We built there the largest tin plate bar mill that I know of in the world.

MR. COLTON: I should like to put in evidence the section relating to the Shenango Valley Steel Company together with its products, at pages 141 and 142 of the Iron & Steel Works Directory of the United States for 1898. That is Swank's publication.

MR. LINDABURY: We think you should not do this. You have the witness here and can prove what you want to by him. Please do it without leading.

MR. COLTON: Of that I will have to be the judge, subject to your objections.

By MR. COLTON:

Q. About what was the capacity of the Shenango Valley Steel Company during the nineties, at different periods?

A. We made about 180,000 tons to 200,000 tons of pig iron a year, and converted that into steel. That would give us a product of approximately 140,000 tons of steel.

Q. At what period in 1890 was it that you did that?

A. Did you say in 1890?

Q. To 1898, inclusive.

A. We commenced in 1892.

Q. I want to know what was your product, approximately, in 1895?

A. Well, I think about 150,000 tons of steel in the form of billets and tin plate bars.

Q. And in 1898, what, approximately, was your capacity?

A. It was a little more than that. We had steadily expanded by acquiring another blast furnace and making more steel, increasing the size of the conductors, and so on.

Q. At New Castle what plants, if any, did you have for the manufacture of tin plate?

A. After the Chicago fair the country went through a period of depression, and in order to use up our surplus steel, that we could only sell with difficulty, we built some tin mills.

Q. What were their names?

A. The New Castle Sheet & Tin Plate Company, I think was the first one.

Q. And what was the name of the other one?

A. The second one was the Shanango Valley Tin Plate Company, I think; something like that.

Q. What capital did you put into the New Castle Sheet & Tin Plate Company?

A. The company as a whole, do you mean?

Q. Yes. What capital did you and your associates put into the New Castle Sheet & Tin Plate Company, all told?

A. Well, I put in my note at the bank, but the company as a whole commenced with $150,000.

Q. And what did you then put in after that?

A. Why, we built the tin mills and got started under great difficulty.

Q. Just the different sums of money which you put in.

A. We put in our profits, and then some New Yorkers put in $150,000 with us.

MR. LINDABURY: You put in your experience, too, did you not?

A. Oh, yes; and that was very valuable.

BY MR. COLTON:

Q. How much does that total up that you put in up to 1898, all told?

A. We put in $400,000 in cash.

Q. All told, from 1892, the time you started the New Castle Sheet & Tin Plate Company, you put in $400,000 in cash, you and your associates?

A. And accrued profits, you know. They stayed in the business.

Q. And when did you first enter into negotiations for the sale of your plant, if at all?

A. I think it was about 1898. Wasn't it 1898?

Q. With whom did those negotiations take place?

A. To begin with, Judge Moore, of Chicago.

Q. When and where did he first see you?

A. He called on us at New Castle.

Q. What conversation took place between you and Judge Moore at New Castle in respect to the sale of the New Castle Sheet and Tin Plate Company, if any?

A. He suggested that we sell our plant to a pool that would be formed by a number of manufacturers, all putting their plants in, and he would endeavor to put through the negotiations. Is that right?

Q. Was Judge Moore the only one there?

A. He was the only one that called in a preliminary way.

Q. What was the next step in the negotiations toward the sale of the New Castle Sheet & Tin Plate Company?

A. I came to New York and met Judge Moore here and Dan Reid, and I think William Leeds, and we drew up an option that I gave them on the plants to purchase.

Q. Did you tell them what you would sell your plant for?

MR. LINDABURY: Do you mean what did the option provide?

BY MR. COLTON:

Q. What did they offer you?

A. They didn't offer me anything. I offered them.

Q. What did you offer them, then?

A. I offered them the mills of the New Castle Sheet & Tin Plate Company for a million dollars, and the other mills, the Shenango Valley——

Q. We will stick to this one for the present.

A. The New Castle Sheet & Tin Plate Company?

Q. The New Castle Sheet & Tin Plate Company. We will stick to that mill for the present.

A. Yes, sir.

Q. You offered them for one million dollars in cash. What arrangements were made with respect to the payment for that mill?

A. What arrangements were made? That was his buisness.

MR. LINDABURY: Does not the option provide?

MR. COLTON: I want to know what the agreement was. Was it to be all cash, or part cash and part stock, or what?

MR. LINDABURY: One moment, please. Was not that in writing?

MR. COLTON: It has not ever been shown to be in writing.

MR. LINDABURY: You know it was.

MR. COLTON: Mr. Reed testified before the Industrial Commission that it was not, as I recollect it.

MR. SEVERANCE: Mr. Reid said they took options on all these properties.

THE WITNESS: What was your question?

BY MR. COLTON:

Q. I want to know what the negotiations were with respect to the sale of your plant and what arrangements were made as to what you were to receive for your plant.

MR. LINDABURY: I object to the answer to that question and ask leave to examine the witness as to whether or not it was in writing.

By MR. LINDABURY:

Q. Did you give them a written option?

A. I have no doubt I did, but that is how many years ago?

That is fourteen or sixteen years ago, and I am 64. You must excuse a little if my memory is defective.

Q. I do not believe your memory is suffering much yet.

A. Thank you.

Q. The question is as to whether or not you gave an option, or have no recollection whether you did or not.

A. Certainly I gave an option.

Q. In writing, was it not?

MR. COLTON: I object to "was it not?" You are leading.

By MR. LINDABURY:

Q. Was it in writing?

MR. COLTON: I object to the question.

MR. LINDABURY: I have a right to ask the question.

MR. DICKINSON: We have never been shown it was in writing. We are simply asking what the negotiations were. If they culminated in a written option it is time enough to ask about that, but we are asking what the verbal arrangements were.

MR. SEVERANCE: If it culminated in a written option, you cannot prove the preliminary negotiations.

MR. DICKINSON: It has not been shown that it was in writing.

THE WITNESS: I can assure you I gave the option. I know that positively.

By MR. DICKINSON:

Q. State what occurred before you gave the option?

MR. LINDABURY: I object to that as incompetent and irrelevant.

By MR. COLTON:

Q. Answer the question with respect to what were the negotiations with Mr. Moore with respect to selling your plant to Mr. Moore and Mr. Reid.

MR. LINDABURY: I object to that as not calling for what was said by either to the other, but simply asking the wit-

ness's judgment with respect to it, or his characterization of it.

A. I was authorized by my associates to give them the right to buy at a certain price, a million dollars.

By Mr. Colton:

Q. And what did you do after that?

A. I tried hard to get the money.

Q. And what arrangements did you make in respect to the sale of your New Castle Sheet & Tin Plate Company to Mr. Reid and others, if any?

A. I gave them the right to buy at $1,500,000, provided——

Q. You are still referring to the New Castle Sheet & Tin Plate Company?

A. Yes. The first mills at one million dollars.

Mr. Lindabury: The first what?

The Witness: The New Castle Sheet & Tin Plate Company at one million dollars. Then you asked me——

By Mr. Colton:

Q. One moment, Mr. Stevenson. How was payment to be made?

A. That is where the rub came in.

Q. All right. I want to know just the answer to that question.

A. Some of our stockholders wanted it in cash sure; others, a little more venturesome, perhaps, and perhaps younger, were willing to take some stock in the company that was proposed to be formed by these individuals. Personally I agreed to take stock.

Q. What was the rate of exchange of cash for stock?

A. You could get cash, and if you were bound to get it, you know, they would give you cash; they would give you par in preferred stock, 100-dollar shares, and the same amount of common stock.

Q. For every $100 of cash you could get $100 of preferred and $100 par common; is that it?

A. Well,——

Q. Just answer.

A. Yes and no. I won't evade at all.

A. But you said $100 worth of common.

Q. I did not mean "worth of common."

MR. LINDABURY: Do let the witness answer the question.

MR. COLTON: I want to explain "par," Mr. Lindabury.

MR. LINDABURY: Let him answer the question, or withdraw it.

BY MR. COLTON:

Q. I will put "par" in the question.

MR. LINDABURY: Either let him answer the question or withdraw it.

MR. COLTON: Withdraw that question, and I will put the word "par" in, and read it.

(Question repeated by the stenographer as above recorded.)

BY MR. COLTON:

Q. Will you answer the question, Mr. Stevenson?

MR. SEVERANCE: That "par" ought to be in both places, both as to preferred and common.

MR. DICKINSON: I want to protest against these side remarks, and the witness being interefered with.

MR. LINDABURY: The witness is not being interfered with except by backing and filling over questions and reconstructing them several times. That is what the trouble is.

MR. COLTON: I object to it and ask that the question be re-read to the witness and that he be permitted to answer it.

(The question was repeated by the stenographer as follows:)

"For every $100 of cash you could get $100 par of preferred and $100 par of common; is that it?"

A. That was their offer and agreement with me and those whom I represented, but they didn't fool me any when they called the common stock par, or the preferred either. If by par you meant $100 in cash value, no.

(Whereupon, at 12:30 o'clock p. m., a recess was taken until 2 o'clock p. m.)

AFTER RECESS.

At the expiration of the recess the hearing was resumed.

JOHN STEVENSON, Jr.,

the witness under examination when the recess was taken, resumed the stand.

DIRECT EXAMINATION (Continued)

By Mr. Colton:

Q. Mr. Stevenson, did you have another plant besides the New Castle Sheet & Tin Plate Company, at New Castle, Pennsylvania?

A. I was interested in the Wire Nail Company.

Q. Did you have another tin plate plant there?

A. Yes, sir.

Q. What was the name of that other tin plate plant?

A. I think we called it the Shenango Valley Tin Plate Company.

Q. When was that plant built?

A. It was built about four years after the first one; three or four years after that first one; I think it was about 1894.

Q. How long was it built before it was sold, if it ever was sold, to the American Tin Plate Company?

A. We were just finishing it.

Q. At the time of its sale you were just finishing it?

A. Yes, sir.

Mr. Reed: There is no Shenango Valley Tin Plate Company, Mr. Colton, that was sold to the American Tin Plate Company.

Mr. Colton: The Shenango Valley Tin Plate Works. He called it a company.

By Mr. Colton:

Q. Was that the Shenango Valley Tin Plate Works? Is that what you mean?

A. We started under that name, but really we absorbed it into the Steel Company, because the stockholders were the same, although in slightly different stockholding interests.

MR. REED: To what steel company do you refer?
THE WITNESS: The Shenango Valley Steel Company.

By MR. COLTON:

Q. In general you will answer the questions to me. The objections of counsel are made for the benefit of the Court. You are to answer the questions as asked by me during the direct examination.

Did you sell the Shenango Valley Steel Company's tin plate works to any parties prior to the formation of the American Tin Plate Company?

A. I did not exactly sell it, but I gave an option to purchase it. Is that right?

Q. Tell us about that option that you gave to purchase the Shenango Valley Tin Plate Works.

A. At the same time Mr. Reis, the President of the Steel Company came with me and helped through in the deal; and at the same time when we sold the New Castle Steel & Tin Plate Company we sold the other, the same day, or gave the option on the other. That is what I should say. We gave the option. That is the better word.

Q. And on what terms did you sell the Shenango Valley Steel Company's tin plate works?

A. For $1,500,000 in stock of the proposed American Tin Plate Company; and if the option was not exercised on their part prior to the first of October, they were to give us $50,000 extra.

Q. Was that payment in stock?

MR. LINDABURY: Are you speaking of the option, now, or the final settlement?

MR. COLTON: I am speaking of the final settlement.

By MR. COLTON:

Q. Was the final settlement in stock?

A. Yes and no. Mr. Attorney, I took this ground: I went home and told our own stockholders, and there were probably 35 or 40 stockholders, that they would get the same as I got. I said, "If you want to sell it, you can take stock or you can take money."

Q. How much money were they going to get, if they took all in money?

A. Well, I would like to answer, if I could; but, you know, Mr. Attorney, I cannot; for we did not take it all in money. What are you going to do about it? Do you see?

Q. Did you have an option to take it all in money?

A. We had the right to take it all in money.

Q. How much money would you have received if you had exercised the right to take it all in money?

A. To try to tell you the truth, now, without equivocating, if we had all demanded the money, I doubt if we would have gotten it.

Q. Assuming they had been able to pay, how much would you have received, if they could have carried out the option?

A. That is a pretty big assumption, isn't it? There was $1,000,000 from the one plant and $1,550,000 from the other.

Q. I would like to know just what it would have been, assuming—

A. (Interrupting) If they had been able to carry it out. Shall I put it that way?

Q. Yes.

A. It would have amounted to $2,550,000.

Q. For both plants?

A. Yes, sir. $2,500,000, provided it was taken prior to the 1st day of October. I gave that option in August. It was very hot weather. I remember that.

Q. What would it have amounted to for the Shenango Valley Steel Company's tin plate works?

A. It amounted to $1,500,000, provided they took it prior to the first of October; after that, it was to be $50,000 more.

Q. Did you take part of that in stock instead of in cash?

A. Do you mean me individually or the company?

Q. I mean you.

A. I took mine all in stock.

Q. How much stock did you receive for every $100 of cash which you would have received?

A. I have tried to tell you, Mr. Attorney, that I "hae me doots" about the cash, you know.

Q. I understand. But if they had been able to raise the cash how much would you have received?

A. I, individually, I think, got $357,000. Is that right?

MR. LINDABURY: In cash?

THE WITNESS: No, sir. I took mine in stock. I said, didn't I, that I took all of my holdings in stock?

By MR. COLTON:

Q. How much cash would you have gotten if they could have paid it, instead of paying you all in stock, as you took it?

A. I never asked them, you know. I thought my interest was more in taking the stock, and I did not bother about the cash.

Q. Do you not know what rate they were to receive?

A. Oh, for others I got the cash, for others of our stockholders.

Q. For every hundred dollars of cash they gave instead what amount of common stock and what amount of preferred stock par?

A. They gave me share and share alike.

Q. Explain that.

A. Well, I got $357,000 of preferred nominally at par and the same amount of common.

Q. And you would have received how much cash had they been able to pay cash?

A. $357,000 in cash if they had been able to pay.

Q. And you dealt with exactly the same parties in disposing of the Shenango Valley Steel Company's tin plate works that you had dealt with in disposing of the New Castle Sheet & Tin Plate Company's works; is that right?

A. Yes, sir.

Q. Mr. Stevenson, when did you go into the wire business, if at all?

A. I think it was about 1884, was it not?

Q. Now, skipping down to 1893 or 1894, in what business were you engaged at that time? In what department of the wire business were you engaged at that time?

A. Making plain wire and nails, wire nails.

Q. In the course of making wire and wire nails, did you or did you not come into competition throughout the United States, with this company, the American Wire Nail Company?

A. Yes, sir.

Q. In respect to what products did you come into competition with the American Wire Nail Company?

A. By making nails and wire; is that right?

Q. Did you or did you not sell wire and nails throughout the United States?

A. Yes, China, and Japan and Australia besides, thrown in.

Q. You met the American Wire Nail Company in two or more States?

A. Oh, yes; all over.

Q. Was the competition keen or not

A. It got worse and worse the longer I was in the business.

Q. Did you come into competition with the I. L. Ellwood Manufacturing Company?

A. Yes, sir; Ike Ellwood; I knew him personally.

Q. And in respect to what products did you compete with him?

A. He made barbed wire, which we did not make, and he made nails; sometimes he bought nails from us when he had to.

Q. In what other products did you compete with him?

A. Oh, with Ellwood—I do not remember any other. He made large quantities of fence wire that we did not make.

MR. REED: Whom do you mean by "you," Mr. Colton?

MR. COLTON: I mean his wire and nail company, at New Castle, Pennsylvania.

By MR. COLTON:

Q. Did you come into competition with the Ellwood Wire & Nail Company?

A. Yes; that was Ike Ellwood's company.

Q. The Consolidated Steel & Wire Company of Illinois?

A. Yes, sir; they were formed later, and we competed with them.

Q. In respect to what products did you compete with them?

A. Wire and nails.

Q. What do you mean when you say "wire"?

A. I mean plain wire, not barbed wire.

Q. Does that include any form of fence wire?

A. Not every form, but one form, plain wire. Lots of farmers put up plain wire; they do not put the barbs on.

Q. Did you come in competition with the American Steel & Wire Company of Illinois?

A. Yes, sir.

Q. In respect to what products?

A. The same that I am telling you.

Q. Was this competition throughout the United States?

A. All over the United States.

Q. Was the competition active or not?

A. It was very active.

Q. Did you come into competition with the Washburn & Moen Company?

A. Not so much, because they made, I think, almost exclusively, barbed fence wire, and fine forms of wire, such as piano wire, and wire for wood screws, that are put into wood screws in the Yankee States here. We did not make that.

Q. Did you come into competition with the Cleveland Rolling Mill at Newburg, Ohio?

A. Yes, sir.

Q. In respect to what products?

A. Wire and nails—wire; they did not make nails.

Q. Did you come into competition with the American Wire Company of Cleveland?

A. In respect to rods and wire.

Q. The H.—

A. (Interrupting) Yes, sir, the H. P. Nail Company.

Q. I will change that. Was that competition interstate, in various states?

A. Yes, sir.

Q. The H. P. Nail Company. Did you come into competition with that company?

A. Yes, sir.

Q. Throughout the United States?

A. Yes, sir.

Q. The Salem Wire & Nail Company?

A. Yes, sir.

Q. Throughout the United States?

A. Yes, sir.

Q. The Pittsburg Wire Company?

A. Yes, sir.

Q. Throughout the United States?

A. Yes, sir.

Q. Did you come into competition with the Carnegie Steel Company in respect to the sale of any products?

A. Not as far as wire—not much as far as wire and nails were concerned, except this, that the Carnegie Steel Company were the principal owners in Hartmans Company at Beaver Falls. For the moment I have forgotten the title of the Company, but Carnegie owned half the stock. I think he owned it individually, not as the Carnegie Steel Company, at Beaver Falls. We competed against them.

Q. Did you go into competition with the Carnegie Steel Company with respect to steel wire rods?

A. Not very much, because we did not sell many rods. We built the rod mill to supply our own requirements for wire, to make wire nails.

Q. At the time you did come into competition with the Carnegie Steel Company with respect to wire rods, was that competition interstate competition, in two or more states?

A. Yes, sir.

Q. Did you meet in interstate competition with the Oliver Wire Company?

A. Yes, sir.

Q. Was that competition keen?

A. Yes; it was very keen. They bought some rods from us once, and I remember we lost about $5,000 on the transaction. No, excuse me, I have not got that straight. They gave us notes at five years, paid us so much a year, and finally paid that off. We did get our money back finally, and I was very thankful to get it.

Q. Did you come into keen and active competition with them throughout the United States?

A. Yes, sir.

Q. With respect to what products did you come into competition with the Oliver Wire Company?

A. Nails and wire. They made barbed fence wire. We did not make that.

Q. You made only plain fence wire?

A. Plain wire, yes, sir.

Q. To whom did you and your associates sell the New Castle Wire Works?

A. We made a deal with John Gates.

Q. Was he the only party you saw in connection with the sale of the New Castle Wire Works?

A. Yes, he was the only one I saw. I didn't see him very long. I saw him on the train.

Q. Where was that?

A. On the way from New Castle to Pittsburg, about 70 miles. I fixed it up. I surrendered, that is what I did.

Q. What was the substance of the negotiations that took place between you and John Gates with respect to the sale of the New Castle Wire Works?

A. We had fought each other so long, that while there were 46 fellows making wire nail originally, the competition had brought the number down to eleven. That is to say, the mortality was about 80 per cent. in the business. (Laughter) It was no joke.

Q. How many of those that died, died an artificial death by going into consolidations?

A. Oh, no, no. Every man's hand was against his neighbor then; we were all Ishmaelites, every one of us. We tried to fix up a price once and could not fix it very well. There was a man named Frank Baackes who was at that meeting, and he went right out after the meeting, went to the telegraph office at the hotel. I should say that we had agreed to a price of $1.50 a keg for nails. He went to the telegraph office and telegraphed Hibbard & Spencer that he had entered their order for 10,000 kegs, at one-forty. He did that although he had just left the meeting. I was going to send one too (laughter); mine was to my partners, and, I assure you, telling them the truth as to what I had agreed upon; and the operator got mixed up taking the messages, and turned and handed me back Mr. Baackes' message instead of my own. The operator said, "Is this right?" handing me the other message, and I stuck it in my pocket (indicating). We had adjourned to meet after dinner. The meeting went on, and we all agreed to be good, very good, and all pledged our honor, and then I took this message out (indicating), and read it to them,

and I said to the Chairman, Stewart Chisholm, "Read this." This was Baackes. You know how good we were.

MR. LINDABURY: No; go on and tell us.

A. (continuing) Stewart said "Kick him downstairs, and I will pay the fine." Well, he was a bigger man than I was, you know.

MR. LINDABURY: This was Baackes?

THE WITNESS: Frank Baackes, a very decent fellow.

By MR. COLTON:

Q. Mr. Stevenson, what did you mean by saying you surrendered to John W. Gates?

A. Well, he is dead; I will not speak ill of him.

Q. What was the transaction; what did he say to you and what did you say to him?

A. The transaction took place with Mr. William E. Reis, the President of the Shenango Valley Steel Company, although I was present at part of it, and cognizant of what was done.

Q. What was done?

A. We sold out to them. That is all there was about it.

Q. Was anything said in connection with the sale?

A. About the money?

Q. Did they tell you what concerns were going into the company that was being formed?

A. There were 46, you see, and a lot of them had died a natural death, and there were only 11 left.

Q. Where were those 11?

A. Then they consolidated until there was only seven left.

Q. In what did they consolidate?

A. Themselves.

Q. What was the name of the company in which they consolidated?

A. I think it was called the Consolidated Nail & Wire Company, located out in Chicago, or at least their headquarters were in Chicago.

Q. Did you ever hear of the American Steel & Wire Company of Illinois?

A. I really think it was called first of all the Consolidated, and then it was afterwards called the American, when we and some others went into it.

Q. The American Steel & Wire Company of Illinois, or the American Steel & Wire Company of New Jersey?

A. I do not know; that did not interest me.

Q. How many of those 11 that you were speaking of were in either the American Steel & Wire Company of Illinois or the American Steel & Wire Company of New Jersey?

A. I do not know. I was not in.

Q. How many companies were on the outside when you sold your company; how many that you know of?

A. There was the Pittsburg Wire Company, which was one; and ourselves, that made two; and then the other fellows. They were all rounded up by that time.

MR. LINDABURY: The other nine. I understand he is speaking of the eleven, don't you?

MR. COLTON: Yes.

THE WITNESS: Yes. Oh, there were a few trifling things, kind of peanut things, the way they were doing. The men that made the nails were together.

By MR. COLTON:

Q. What did you do after you sold the New Castle Sheet & Tin Plate Company and your other tin plate works to the American Tin Plate Company, and after you had disposed of your wire company?

A. After I had sold the tin mills, I had still the steel mill on my hands.

Q. What did you do with that?

A. I cultivated very friendly relations with Gates and John Lambert, his partner, and they bought quite a large quantity of our billets. Is that what you mean?

Q. I want to know what you did?

A. We sold them billets.

Q. Sold them billets?

A. Yes.

Q. Did you keep the Shenango Valley Steel Mill, or did you finally dispose of it?

A. About a year after that another company bought it out.

Q. What was the name of that company?

A. The National Steel Company.

Q. On what terms did you sell your Shenango Valley Steel Company to the National Steel Company?

A. Why, the same old story, stock in the concern.

Q. At what rates?

A. I did better this time. I was more experienced by that time.

Q. Tell us what you got for it.

A. Well, now, I will try and tell you. You will excuse me if I am a little inaccurate; I am not very much. We had started the Shenango Steel Company with $300,000 and $150,000 of bonds; that was $450,000. A firm in New York here put in $250,000 with us about two years after we were started, and we put in our profits besides, and that raised us to a million. I was lying in the house with a broken leg and my children and my wife were begging me to sell out when this chance came along, and I give the credit to William E. Reis, the president of our company, for selling it judiciously. We had some profits, and we sold it for $3,300,000.

Q. And to whom did you sell it?

A. To whom? Well, that would be a little hard for me to answer. It was the same old crowd, though, that was bobbing up over that series of years. They were getting stronger, you understand, at that time.

Q. Can you not name some of them?

A. Judge Moore was one, I think Dan Reid, Leeds, Henry Wick of Youngstown. We all went in together, you know, the Wicks there. Well, a lot of us. I suppose there were more than a hundred, I am sure.

Q. Then what did you do subsequently to that? After you had sold out your wire company and your tin plate company and your steel company, what did you do?

A. Why, I had no more companies to sell then, and I went abroad. No; I had one more, that was a tube mill. I forgot about that.

Q. What did you do with your tube mill?

A. I sold it, too.

Q. To whom did you sell it?

A. I was making bicycle tubing, and a craze had gone through the United States for forming combinations, and they bought it.

Q. Was it the National Tube Company or the Shelby Tube Company?

A. It was the Shelby Tube Company. A man named Lozier in Cleveland, and Hartman, who was Carnegie's partner, and a man called Gilbert.

Q. After you had sold all of your mills you went abroad?

A. Yes.

Q. And you then came back to this country?

A. Yes.

Q. What did you then do?

A. Well, when I sold out there was a clamor and a scramble for position amongst all these stockholders who had been helping to run the works, you know. They were kind of afraid that the Lord would not take care of them, and they wanted to get under the shelter of the combination. I didn't have any fears that way. I started in and put some money into a plant 20 miles from where I lived, at Sharon. They were building a steel works there, and they wanted me very much indeed to come up and help it through. The capitalization was $2,000,000, and they had sold a little over a million of the stock, and I took all that was left when I came home.

Q. What did you then do? Did you build a plant, or not?

A. Yes, sir.

Q. How many mills did you put into that plant?

A. I built another wire mill and another rod mill and a steel works and tin mills. I shook the apple tree again. That is what I told the boys.

Q. Suppose we take up the tin plate works, first. What did you put into the tin plate works?

A. You mean in money?

Q. No; I mean how many tin plate mills you made?

A. Twenty mills in Sharon.

Q. When you had your twenty mills at Sharon, what did you do?

A. Ran them, of course.

Q. Ran them?

A. Oh, yes.

Q. And did you sell your products throughout the United States?

A. No. I told you that a lot of my old partners came to New York and were all around here, and they knew me well enough, so they concluded they had better make peace. How is that? Is that right?

Q. You are the judge. Well, what did you do about it or what did they do about it?

A. They asked me to come to New York the first time at my leisure and talk the thing over, and I did with Mr. Graham, a very worthy gentleman of the American Tin Can Company; I talked it over with Warner Arms, with Dan Reid and a little with Judge Moore.

Q. What was the upshot of your talk?

A. Why, they asked me—they threatened a little, of course, and I just listened, and I said, "I am not here to sell out any plants to you at all; I don't want that; I made a mistake selling out some of the plants." So this time I just asked them to give me a percentage of the business, because you see I was getting up in years then, and I thought I would want something to keep me out of mischief. Some of the fellows who had come to New York had got badly in mischief. I mean they had too much money, and they had not enough to do in these high buildings here. That is about the truth, now. Yes; that is the truth. Too many chorus girls here.

Q. What agreement did you reach, if any?

A. We reached this agreement, that if the—there were 219 or 220 tin mills in the country at the time, and some were pretty old ramshackle things, sheet mills altered, and not good for anything; and I said to Graham, "Now, if you will give me ten per cent of the business of the United States"—that was pretty near right, wasn't it? "With my new mills, I will run them, and I will take the same price as you get." Now that was a fair deal. I took the same as they got. If they got much, I got much; if they got little of anything, I took my share of the punishment.

Q. What percentage did you make on that contract or agreement?

A. Ten per cent. What do you mean?

Q. I want to know what per cent you made.

MR. LINDABURY: Before that is answered: Is this a contract he said he had made with them for production?

MR. COLTON: He says this is an arrangement he entered into with Mr. Graham and Mr. Reid. I called for that contract from the American Tin Plate Company and Mr. Wheeler said he could not recognize any such contract as that.

MR. LINDABURY: I am just asking for information.

MR. DICKINSON: I questioned him about that, and he said he could not find it.

By MR. COLTON:

Q. How profit did you make on that contract?

MR. LINDABURY: How much in the operations under it?

By MR. COLTON:

Q. Yes, in the operations under it what were your profits?

A. Who am I to answer, Judge?

Q. You are to answer me.

A. You get me puzzled.

Q. They simply object, but the questions are all to be put by me. I want to know how much profit you made under that contract.

A. Pardon, Mr. Attorney, do you mean profit on our capital stock, or do you mean the aggregate sum of profit?

Q. Your percentage of profit on your capital stock, yes.

A. And in what time?

Q. During the time of the contract.

A. I made about 37½ per cent.

Q. 37½ per cent. a year?

A. Oh, no—18 months.

Q. Eighteen months?

A. You said the aggregate, didn't you?

Q. Yes.

A. Let me see now. No, it was 37½ per cent. the first year we ran.

Q. How much was it during the next six months?

A. It kept up pretty well then, too. Is that what you mean? Is that the answer?

Q. That was my question.

MR. LINDABURY: Has he given a date, either exact or approximate, when that arrangement was made?

By Mr. Colton:

Q. About what date was that arrangement made?

A. I think that would be about 1897. I would think it was about then.

Q. It was after the formation of the American Tin Plate Company, was it?

A. Yes, sir. They were in full blast and running.

Q. And it was before the sale of the Sharon Company to any other company, was it not?

A. It was concurrently with it.

Q. Did you make that contract at the time you sold your Sharon Company, too?

A. Yes, sir; the same time.

Q. How long was that contract to run?

A. Ten years.

Q. Why did it only run eighteen months?

A. Well, you see, the Sharon Steel Company owned a controlling interest by one or two shares in the Tin Plate Company. I was a stockholder in both companies.

Q. In which tin plate company?

A. The Sharon Tin Plate Company.

Q. Yes.

A. When they sold the controlling interest out then it was a case of surrender or fight, wasn't it, for the minority. I thought it was more discrete to surrender, although I told Graham that if he would sell it back to me at the same price I would run it and go on without him; I made him that offer.

Q. Between what companies was this contract?

A. It was between the Sharon Tin Plate Company and the American—a subsidiary of the United States Steel Corporation, called the American Sheet & Tin Plate Company. I think that is the title. Is not that the title? The American Sheet & Tin Plate Company?—one of the subsidiary companies.

Q. State, if you know, whether it was the American Sheet & Tin Plate Company, or the American Tin Plate Company?

A. Well, Mr. Attorney, I assure you I do not positively recall, but I know the men who were in it.

Q. Who were the men?

A. Graham, I am telling you, and Warner Arms, of Youngstown.

Q. What positions did they hold in the company?

A. President and vice-president, and I saw Dan Reid, who was one of the directors.

Q. Was that the only company of the United States Steel Corporation at that time making tin plate?

A. The only company.

Q. The only company that belonged to the United States Steel Corporation that was making tin plate?

A. Yes.

Q. Is that the one you sold to?

A. I sold to the subsidiary of the United States Steel Corporation, called the American Sheet and Tin Plate Company. I think that was the title. Is that clear?

Q. Was the company that you sold to the same company—

A. I did not sell to them. I made a contract with them.

Q. Was the company with which you made that contract the same company to which you had previously sold your plants at New Castle?

A. Yes.

Q. The New Castle plant and your Shenango Valley Plant?

A. Yes, sir.

Q. In addition to building tin plate works, what else did you build at Sharon?

A. I helped to build the steel works there, making wire and rods and nails.

Q. With what companies did you come into competition in the sale of wire and nails?

A. In the United States with the U. S. Steel Company's subsidiary corporation, which I call the American Steel & Wire Company? You suggested it was the Consolidated, but I thought you were in error there.

Q. If I suggested that I was in error. The American Steel & Wire Company of New Jersey?

A. Well, it was of New Jersey and it was of Pennsylvania—it was all over. There were a dozen plants throughout the United States. The corporation articles were probably taken out in New Jersey. I have no doubt that they were.

Q. Was your competition with that company keen and active?

A. Yes, sir; we competed with Germany——

Q. I am asking now with respect to your competition with the subsidiary of the United States Steel Corporation which you call the American Steel & Wire Company.

A. Yes.

Q. I want to know whether your competition with that company was keen or not?

A. Well, we competed, but it was not very keenly, and I will tell you why, because pig iron, when we started to make it in Sharon, was about $14 a ton, between $13.50 and $14; and there was quite an appreciation of prices—you can call it a boom if you like,—that sent the price of pig iron up to $22, and steel was selling at about $15 a ton for billets, and it jumped to about $31 or $32 a ton, so when you say were we competing, yes, but there was market enough for us all and to spare. You see I did not need to compete. The public bought all we could make.

Q. Were you selling wire and wire nails in the same market with the American Steel & Wire Company?

A. Yes, sir. They were behind in their deliveries; so was I, many a time, for that matter.

Q. Was your plant at Sharon well equipped?

A. Very well equipped. It was the best I ever built.

Q. What was the capacity of the Sharon plant? Take the steel plant first?

A. We would make about 350,000 tons of steel a year. The Steel Corporation made about 10,000,000.

Q. Do you know anything about the Union Steel Company?

A. Yes, sir. That was in opposition to us.

Q. Did your Sharon Company have any negotiations with the Union Steel Company, or with its officers?

A. Yes, sir; Mr. Donner, the President of the Company.

Q. What were those negotiations?

A. He came to stay at my house and told me he thought we had better get together.

Q. What did you do?

A. We had a very large ore property and I said that would be a good thing to keep him from putting up blast furnaces and we could make the pig iron and ship it up to him at Donora. Is that right? It would be a good thing I thought, and still think so.

Q. How much ore did you have?

A. We bored drill holes every 600 feet square—every 600 feet this way and every 600 feet that way (indicating), and put down diamond drill holes, and when we got through with 57 holes, we found to our surprise that the property we bought supposing it would have 1,300,000 tons of ore, brought in 25,000,000 tons. We knew there was that—an enormous quantity.

Q. Did that 25,000,000 tons all belong to the Sharon Company?

A. Yes, sir.

Q. Did the Union Steel Company have any ore?

A. They had little scattering bodies, but when Donner knew that, he said he thought it would be a nice thing if we could get together, and he would get the benefit of our ore. That is what I mean.

Q. What plants were the Sharon Steel Company and Union Steel Company building at the time they were merged?

A. We had our steel company running; our tin plate company running, making tin bars; our wire mill, rod mills running, and the Union Steel Company had their rod mill and wire plant running.. The Union made rods, wire and wire nails. They had no pig iron, and they bought their billets from the Carnegie Steel Company.

Q. Let me interrupt you a moment. Was the Union Steel Company selling its wire and wire nails throughout the United States?

A. Yes.

Q. In competition with the American Steel & Wire Company?

A. Yes, and in competition with us.

Q. Was the Union Steel Company or the Sharon Steel

Company contemplating the building of any mill other than those previously described?

A. Not that I know of. They would like to build some blast furnaces, they said, but I suggested that they build them at Sharon, very naturally, and they thought they had better build them at Donora.

Q. Had you built any tube works?

A. I began the building of one.

Q. What companies then were engaged in the manufacture and sale of the products that you contemplated making at those tube works at that time?

A. The National Tube Company at McKeesport was one; the plant at Youngstown was another. I think they called themselves the Youngstown Sheet & Tube Company.

Q. What product was that tube plant that you were building going to make?

A. Tube, more particularly gas pipe for natural gas.

Q. Going back to the Shenango Valley Steel Company, that company made billets and tin bars, did it; or did it not?

A. Yes, sir.

Q. With what companies did you come in competition in the sale of billets and tin bars? By "you" I mean the Shenango Valley Steel Company.

A. A great many.

Q. Name as many as you can, please.

A. The Carnegie Steel Company, the Illinois Steel Company, the plant at Joliet, the Cambria, the Pennsylvania Steel Company, at Harrisburg, Bethlehem, Youngstown, the plant there; there was plenty of competition.

Q. State whether or not the Union Steel Company and the Sharon Steel Company had on foot the building of any railroad at the time of their merger.

A. The Sharon Company had not, but Mr. Andrew Mellon who was interested in the Union Steel Company, told me that he had a road—

MR. LINDABURY: I object.

MR. COLTON: Was that a part of the negotiations passing between you and Mr. Mellon in connection with your Sharon works?

THE WITNESS: Mr. Mellon was not a stockholder in the Sharon works, no, sir. Now, what do you want me to tell?

MR. COLTON: I want to know whether it was in connection with the merger of the two companies that he told you what you started to tell us. That is objected to, I understand, as hearsay.

THE WITNESS: Oh, as hearsay. He told me——

MR. LINDABURY: One moment. Do not answer the question yet.

By MR. COLTON:

Q. In what connection did he make the remarks, without repeating the remarks themselves? I want to know in what connection you had that conversation.

A. It was held out as an alluring bait to me why I would be willing or ought to be willing to merge with them.

MR. LINDABURY: I object to that, and give notice that I will move to strike it out.

By MR. COLTON:

Q. I will ask you to give the conversation that passed between you and Mr. Mellon in respect to that railroad.

A. Well, I just told you.

Q. Tell us all about it.

A. That was the long and short of it, that there would be lower grades there, and that would help us in the delivery of ore at Sharon, which I think it would.

Q. What railroad?

A. The one in his head, not in reality.

Q. Where was this railroad to run, according to him?

MR. LINDABURY: My objection goes to all of this as hearsay.

MR. COLTON: You need not answer that question.

By MR. COLTON:

Q. What were the financial interests behind the Sharon Company and the Union Company, so far as you know?

A. I knew Mr. Donner, the president, and Mr. Mellon were in it, but in our own company we had about 80 stockholders,

nearly all of whom I knew personally, and many of them had invested because I had suggested to them to do so.

Q. Did you sell the Union Steel Company to the United States Steel Corporation?

A. Pardon, one moment. We merged the Sharon Steel Company and the Union Steel Company together, and then when that was completed, the Union Steel Company sold their interest to the United States Steel Company, the merged company. Is that clear?

Q. Did you get a share in the compensation received for the sale of the Union Steel Company to the United States Steel Corporation?

A. I did not get any shares.

Q. What did you get?

A. I got bonds.

MR. LINDABURY: A Scotch habit.

THE WITNESS: No, you are mistaken about that. I had gotten wisdom, that was all, by that time.

By MR. COLTON:

Q. How much did you get?

A. I said I had got wisdom by that time when I took bonds instead of common stock.

Q. And what amount did you get?

A. I, individually, or the company?

Q. The company.

A. We received the amount of money we had put in, and the accrued profits, and they agreed to take the ore property over at $5,000,000. That was the ore that we had found so unexpectedly, such an immense volume of ore. And the appreciation on the coal property; the current market value of the coal property. It was the worst deal I ever made. I got the bonds; that was all right, but I mean to say in previous deals it had been an element of gambling, the taking in of common stock, that one hoped would rise in value, and this time I just got my profits, and that was all.

Q. What was the quality of that ore?

A. It was very good.

Q. And suitable for making what sort of steel?

A. Splendid pig iron. We mined it very cheaply.

Q. Before you sold the New Castle Wire Works to John W. Gates did your company have any other negotiations in respect to the sale of your wire plant at New Castle, Pennsylvania?

A. With other people than Gates?

Q. With Gates or anybody else.

A. Oh, every year there was somebody who came along and talked of buying it, but we did not pay much attention to them.

Q. Had you had any communication with Mr. Gates on that subject about a year previously?

A. Oh, five or six or seven years previously. He was always wanting us to consolidate. He wanted me to be a partner with him; he offered me a fourth interest in his business.

Q. What was the total capacity of the existing and proposed works at the Union Steel Company's plant, including the Sharon Steel Company's plant, subsequent to the merger?

A. Well, by joining the Union Steel Company we more than doubled our capacity in rods and in wire and nails.

Q. What capacity did that make?

A. That was quite a capacity then; it was over 2,000,000 kegs of nails a year; that was quite a quantity. The country used from ten to eleven million kegs.

Q. What was your capacity of wire rods?

A. It was conspicuously large then. I would think about 150,000 tons a year, the two plants combined.

Q. You mean the two combined plants?

A. Yes, sir.

Q. How much did you say?

A. Fully 150,000 tons a year.

Q. Did that include what was building as well as what was already built?

A. No; I mean what was done, not what was in our heads; what was built.

Q. Were any plants in the process of building there?

A. Yes; but I am not talking of plants in process.

Q. I want those in process of building. What capacity did they have or were they intended to have?

MR. LINDABURY: Oh, now.

MR. COLTON: Designed, I will say.

MR. LINDABURY: Let us have one thing at a time. First if there were any in process of building.

MR. COLTON: He said there were.

MR. LINDABURY: I did not hear him say it.

MR. COLTON: Yes.

A. Mr. William Donner, of the Union Steel Company, had designed blast furnaces—talked about it, anyhow, but he had not got them built. He talked about it.

MR. LINDABURY: Like Mellon's Railroad?

THE WITNESS: Yes; maybe Mellon was behind him too. He talked about building a steel plant.

By MR. COLTON:

Q. Who was Mellon?

A. He was a Pittsburg banker, and an able one; a very able one.

MR. LINDABURY: I suppose you mean Andrew Mellon, do you not?

THE WITNESS: Yes; and Dick, his brother, too; both of them able men.

By MR. COLTON:

Q. Can you give me the total amount of money or the total amount of stock received from the United States Steel Corporation for the Union Steel Company's properties and the Sharon Steel Company's properties or stocks?

A. I can tell you about the Sharon, because I was the vice president and general manager there. We got $13,200,000 odd in bonds. We did not get any stock at all.

MR. COLTON: You may take the witness, Mr. Lindabury.

CROSS EXAMINATION.

By MR. LINDABURY:

Q. Have you ever been in any other business than the steel business, Mr. Stevenson?

A. A little.

Q. What business?

A. Well, I was interested in some coal property for years, but I do not think it is of any interest to you to know about it.

Q. No detail about it, no.

A. Well, I have been a very little in the banking business. I am president of a little bit of a bank. Is that what you mean?

Q. I have not anything in mind. I only wanted to know if you had had other experience than in steel. You began the steel business in what year?

A. Well, I began with the Carnegie Steel Company in March, 1875. That is what you mean, isn't it?

Q. Yes.

A. As a boy I happened, in going to school, to see Henry Bessemer blow the first heat of steel in Scotland, trying to make Bessemer steel; and he made a nice mess of it.

Q. Did you stay until he had made something different?

A. No. The man was a lawyer——

Q. By that do you mean that a lawyer is apt to make a mess? You do not connect the profession with a mess, do you?

A. Just hold on a moment. He had tried in Sheffield and failed, because the metal in English pig iron was too viscous. Do you know what I mean?

Q. Yes.

A. It did not flow; but people knew the Scotch pig iron was very fluent when you melted it, and hence in this country for a generation they imported it to make stove plate facings, so the stove plate would come off nicely with the American eagle and other things. Scotch pig being high in phosphorus, one to one and a half per cent., when he tried to make that into Bessemer steel we had fun. The Scotch boys had the fun, not him, I can assure you. It made fireworks all over; it ran like mercury on a table.

Q. Whatever mess he made of it then he made a success of it afterwards?

A. Yes, sir. He went to Sweden and when he got started he made fine steel.

Q. Well, that is the way the lawyers do, keep on—

A. Successfully steal, you mean? (Laughter)

Q. When did you first engage in the steel business on your own account, and, of course, in this country?

A. Making steel, at New Castle, in 1892.

Q. That is in the connection you have already mentioned?

A. Yes, sir.

Q. And in connection with the Shenango Valley Steel Company?

A. Yes, sir.

Q. That had a tin plate mill, I believe, or mills?

A. No, sir, but I happened to be in both companies. It was a different company.

Q. It was the New Castle company that had the tin plate mill?

A. Yes, sir.

Q. When was that tin plate mill started?

A. Well, it was started, if you remember the year Cleveland was elected. He was elected in the fall, and we started the mill about next March or April, the year of Cleveland's election.

Q. Which election?

A. First election, that was. I think he was elected in the fall of 1893, wasn't he, and took office in the fall of 1894?

MR. SEVERANCE: He was elected the first time in 1884, and the second time in 1892.

THE WITNESS: He was elected in 1892 and he took office in 1893, did he not?

By MR. LINDABURY:

Q. That was the second time.

A. Well, we were very much scared when he got in there, I can tell you that.

Q. So you started up this new industry?

A. Well, I had bad luck.

Q. Before that?

A. No. We put up our building, and when the Democrats met to ratify Cleveland's election in New Castle there was a violent windstorm and it blew down our mill that night.

Q. The night of the election?

A. The night they ratified Cleveland's election.

Q. Yes.

A. I had saved the money to build a house with, and my wife—

Q. Never mind about your house. You put up the mill again?

A. Yes; I had to put up the mill.

Q. This was a new mill, was it?

A. A brand new mill.

Q. And who was associated with you in that company?

A. Mr. Greer, of New Castle, who had been in the Piano business.

Q. Never mind about his biography. Anybody else?

A. Yes; Stoltz, a banker. We needed him.

Q. You needed him?

A. Very much.

Q. You needed his money worse, though, did you not?

A. Yes; a good deal worse.

Q. Go on.

A. Well, there were the Cunninghams in New Castle.

Q. That will probably do. What was your capitalization?

A. $150,000.

Q. And was this in the tin plate plant alone?

A. Yes, sir.

Q. This was a mill for making tin plate?

A. Yes, sir.

Q. Only?

A. Yes.

Q. How long had tin plate been made in this country?

A. Oh, it hadn't been made much; very little.

Q. It was a new industry, was it not?

A. Yes, sir; entirely new; it had been made twenty years before, but was a total failure, up here at Demler.

Q. Tin plate before that had been imported from Wales, had it not?

A. Yes; about twelve to fifteen million dollars worth a year was being imported.

Q. And substantially none manufactured?

A. That is correct.

Q. And you were among the pioneer manufacturers in America?

A. Yes, sir.

Q. And about how many others at that time?

A. There were not any others making tin plate except one mill that I know of.

Q. What was that?

A. A little mill down at a place called Wellsville, I think it was.

Q. In what state?

A. In West Virginia. I think it was Wellsville.

Q. Yes. Your plant then, and that plant, held the field?

A. Yes, sir.

Q. Which was the larger?

A. The whole United States.

Q. Which of the two plants was the larger, his or yours?

A. I went to Wellsville and saw his——

Q. Never mind your trip there, but which was the larger.

A. Well, I built mine twice as large as his.

Q. That is what I want to know.

A. Yes.

Q. Then you had two-thirds of the American business?

A. What?

Q. Your plant was twice the size of the only other one?

A. Yes.

Q. And that gave you two-thirds of the American production at the start, I suppose, did it not?

A. Not two-thirds of the American businesss.

Q. Of the American production?

A. Yes; of the American production, but not of the American business, you know, because of the imported.

Q. I did not mean that. I mean of the American production?

A. Yes, sir.

Q. That is enough now. How long was it before any other plant started up?

A. I started the next plant myself.

Q. Where?

A. I got some money in New York here.

Q. To compete with the other one?

A. No; to compete with myself; extended our own plant.

Q. Where did you put it up?

A. New Castle.

Q. The same place?

A. Yes, sir.

Q. How soon did you do that?

A. Right away, as soon as I got the money.

Q. About what year?

A. I commenced a year after I had been running.

Q. Still during Mr. Cleveland's time?

A. Yes, sir.

Q. And at that time had any other plant started up?

A. There were others nibbling at it, but I don't think they had the courage to go on just.

Q. How soon was there a bite?

A. About two years afterwards, say.

Q. What plant started up then?

A. Why, this man Donner started up a plant. I was going to say in Richmond, Indiana, but I think it was—say Richmond, Indiana. They started a plant there.

Q. What year was that?

A. I would think that was about 1894; 1893 or 1894.

Q. And was that the third plant started?

A. I would not be quite sure of that, Mr. Attorney.

Q. And how long was it before these 46 plants to which you refer were underway?

A. Forty-six?

A. I understood you to say there were 46?

A. It was 46 nail mills competing against each other.

Q. That was not tin plate mills?

A. No; nail mills.

Q. How many tin plate plants were there when you sold out to Gates? Did you sell out to Gates, did you say?

A. No; I didn't sell to Gates at all. He wasn't in the business.

Q. You sold out to Moore?

A. Yes, sir; kind of sold out to Moore; I gave him the option, you know.

Q. I mean you gave him the option, and ultimately it was carried out?

A. Yes, sir; that is right.

Q. How many tin plate mills were there at that time?

A. There were a whole lot at that time; there were over one hundred.

Q. Over one hundred mills?

A. Yes.

Q. How many mills did you have?

A. By that time I had got twenty at the New Castle Sheet & Tin Piate Company, and I had built thirty more out about a mile below that.

Q. How many all together? How many mills all together?

A. 50.

Q. 50 mills?

A. Yes, sir; the largest tin plate mill in the world.

Q. Did you have half the business in the country then in capacity?

A. Oh, no.

Q. How many mills were there at the time you sold out to the new company?

A. I would think offhand—I do not say that I am correct—but I would say offhand there were 160 to 200; 160 anyhow, I would guess. There were a whole lot of us.

Q. And had competition been strong in the tin plate business?

A. Yes sir; it had brought the price of tin plate down to from $3.25 a box to about a dollar off that, $20 a ton cheaper.

Q. How did your selling price compare with the cost of manufacture? Was there any profit in it at that reduced price? That is what I mean.

A. Yes, sir; there was a profit to our mills.

Q. But to the mills generally, was there a profit?

A. Well, they were getting on the ragged edge, a good many of them. They were very much distressed about it.

Q. Was the business in a healthy condition at this time?

A. I would call it getting demoralized. I was not demoralized, myself. Still plenty of others were.

Q. I am not speaking of a strong concern like yours, but of mills generally.

A. They were very much distressed, lots of them.

Q. Do you know whether or not it was the mill owners themselves who applied to Judge Moore to do something to relieve the situation?

A. I believe it was some of them; Dick Quay was one of them who did, that I know.

Q. What was the occasion for it; what was the business situation that occasioned that?

A. They had bankrutcey staring them in the face, you know, or thought they did.

Q. Was that true of a good many of them?

MR. COLTON: I object, unless he knows.

A. That would be pretty hard for me to say, you know.

By MR. LINDABURY:

Q. I only want your judgment as an experienced man as to whether this condition was widespread or confined to only one plant.

A. No; it was widespread. We were feeling the pinch of it ourselves.

Q. And the situation was one of demoralization?

A. I would call it demoralized; yes, sir.

Q. That was what directly led to the formation of the American Tin Plate Company was it not?

A. Yes, sir; you put it correctly.

Q. You gave an option to Judge Moore, I think you have told us?

A. I believe I did.

Q. And that option entitled you to all cash if you demanded it, did it not?

A. Well, I told you— Pardon me, I told the Judge.

Q. Never mind about their ability to meet it, but on the face of it, it called for cash, did it not? That is all I am interested in asking you?

A. Well, will you allow me to say that the understanding was that we would get cash,—the hope.

Q. Do you remember whether on the face of the option it called for cash or not? If you do not remember, please say so.

A. I would not swear that it called for cash, although I believe it did. Shall I say the hope was—

Q. No, I do not care for that.

A. What do you care for?

Q. You say whatever the paper said, there was an understanding that you could have cash if you wanted it. Is that

what you mean to say Mr. Stevenson?

A. It kind of meant that we would get cash if Judge Moore could raise the money. Now do you understand?

Q. I will try to understand whatever you say.

A. Well, thank you, sir.

Q. I am endeavoring to get from you a statement of your recollection, whatever it may be, Mr. Stevenson.

A. Yes, sir.

Q. So you had an understanding that you would get cash if Judge Moore could raise it?

A. Yes, sir; Judge Moore and his associates.

Q. And his associates.

A. Yes.

Q. Was that at the time the options were signed, or was that an earlier understanding, before the Judge undertook it?

A. I was not in on the preliminary deals with the judge at all. I was not in on the preliminaries. I know Dick Quay was, for one, and he was asked by the other manufacturers to go around and as he knew me he came to me and talked about it. He had a tin mill: Quay was interested in a tin mill.

Q. In addition to selling out your tin plate plant to the Tin Plate Company through Judge Moore, what else did you sell about that time, what other property?

A. I started with a tin plate mill.

Q. Yes, sir; so you have told us. What next did you sell?

A. I sold that little tube mil to the Shelby Tube mill.

Q. That was the next thing?

A. Yes, sir.

Q. That was quite a small affair, was it not?

A. Yes, sir.

Q. And the Shelby Tube Company was rather a small affair, was it not?

A. Yes, sir.

Q. Where was it located?

A. The mill that I was interested in was located in New Castle.

Q. No, I meant the Shelby plant.

A. It was at Shelby.

Q. Yours was at Newcastle and the other was at Shelby?

A. Yes, sir, Shelby, Ohio, and they had a plant at a place called Ellwood, in Pennsylvania.

Q. Who were the owners of the Shelby Company?

A. Gilbert was the name of one of them, and Lozier was another, and Hartman.

Q. Why did you sell the tube plant?

A. Because I put in $180,000 with my associates, and they gave me $402,000 for the plant.

Q. In what? Cash or stock?

A. Cash.

Q. They made you a good offer?

A. They made me a good payment, yes, sir.

Q. Didn't they pay you the full price?

A. They thought so.

Q. I do not understand you. Did they pay you four hundred and some odd thousand dollars?

A. Yes, sir.

Q. That was what they agreed to pay you?

A. Yes, sir.

Q. So you got payment according to the contract price?

A. Yes, sir.

Q. It was a good price, I understood you to say?

A. Well, it was a fair price. I needed the money to put into the tin mill.

Q. You really sold it because you wanted to contract your operations?

A. Yes, sir; I wanted to contract.

Q. And develop the tin mill?

A. Yes, sir, Now, that is the real reason.

Q. So you sold out to realize to get the cash for another venture?

A. I got my share of the cash.

Q. That was all there was to it, was it not?

A. That was all there was to it.

Q. What is the next plant you sold?

A. I sold the wire mill to Gates. He was acting for others, of course.

Q. In what year was it that you sold that plant?

A. To Gates?

Q. Yes.

A. I would think about 1905 or 1906. I think it was about then.

Q. You do not mean that?

A. About 1895 or 1896. Pardon me. It was 1895 or 1896. Is that right?

Q. You think it was 1895 or 1896?

A. About that time, I think.

Q. I suggest that you are a little wrong there, too.

A. Am I?

Q. I think it was a year or two or three later.

A. Was it?

Q. But no matter; it was the latter part of that decade?

A. Yes, sir.

Q. The latter part of the last century?

A. I do not know.

Q. My associate says it was.

A. No, it was not very much "latter".

Q. Did Mr. Gates come to you or did you go to him, or did you drift together on the train that day?

A. He just happened to be on the train.

Q. Who introduced the matter of this sale, or do you not recall?

A. We never met but what we talked about it.

Q. You had been talking before?

A. Oh, yes, years before.

Q. The situation of the trade was pretty bad, was it not?

A. It was very bad.

Q. How many concerns had there been in that business a few years before.

A. Forty-six that I knew of myself that I kept tab on.

Q. Whenever any one went to the wall you scratched them off?

A. Yes; we sold them wire, Mr. Attorney, and we had to keep tab of them for fear they would not poy us.

Q. And when one of them failed, you wanted to know it?

A. Sure, very much so.

Q. And sometimes you would feel it?

A. I told you the Oliver crowd busted, and they got us for $35,000, but they ultimately paid it all off.

Q. What was the space of time in which the mortality ran down from 46 to 11?

A. Well, a good deal of it happened in Cleveland's administration.

Q. At what date was it that there were the greatest number in the business; that is, the 46?

A. I would say about 1892 to 1893.

Q. Yes.

A. That was at the time of the Chicago Fair.

Q. That was 1893, was it not?

A. It should have been 1892, you know, but it was shoved off a year.

Q. That had nothing to do with the number of wire nail mills?

A. Well, it was the four hundredth anniversary of Columbus' discovery, that is all.

Q. What is that you say?

A. It was the four hundredth anniversary of Columbus' discovery of America.

Q. I mean to say this apex in the number of manufacturers of wire and nails, I suppose, had nothing to do with the fact that the Fair was postponed one year, did it?

A. Well, yes, and no. You see, the Fair, as we say in a business way, broke Chicago, and the hardware merchants there were kind of wabbly and tottery, you know what I mean; they were not very robust and strong.

Q. I have seen exhibitions of that kind. Well go on.

A. That demoralization spread, the panic went on through the country in 1893 and 1894.

Q. Then the downward turn began some time in 1893, would you say?

A. Yes.

Q. And this number began to be reduced from 46, until it got down to 11?

A. Yes, sir.

Q. When did it get down to 11?

A. It was not very long.

Q. About how many years?

A. I would think not more than between two and three years.

Q. Was this reduction due to failures?

A. Not all due to failures because there were some men who just quit the business without failing.

Q. Those who quit without failure quit because they found it unprofitable, I suppose?

A. Yes; there is no question about that.

Q. So the reduction in the number was on account of bad business conditions?

A. It was on account of the lack of profit in the business.

A. Trouble enough, if there was no profit.

Q. Was it bad business conditions generally, or was it confined to the steel trade, or was it due to destructive competition, or what was it?

A. It was due to too many being in the business for the demand, entirely too many.

Q. You and Mr. Gates on this account discussed the business situation whenever you met?

A. Yes, sir.

Q. I understand the point of time was reached when on a train one day you discussed the question of making some sort of a combination or getting up some sort of a strong company to do the business thereafter. Is that right?

A. No, sir.

Q. Well, tell me what is right?

A. He had gone ahead on his own account and had gotten up the strong company; he had united four companies out west and had reduced the 11 to 7.

Q. That had already been done?

A. He had done that, yes.

Q. And that company was called the Consolidated?

A. The Consolidated Wire Company, I think.

Q. What companies went into that?

A. The one at Anderson, the one at Joliet, and the one at Braddock went in, that I recall. That would be three. There was another one.

Q. Those were all owned in the same interest, were they not, by the same group of individuals?

A. Yes, sir; the stock was merged.

Q. But I mean before the merger, that the same people owned all four of the companies?

A. Yes, sir.

MR. COLTON: I object to that unless he knows.

MR. DICKINSON: The question is whether all four companies were owned by the same people before the merger, controlled by the same people. That is the question.

MR. LINDABURY: It has already been testified to; that fact has been proven.

MR. DICKINSON: I did not know whether he understood the question.

Do you mean before they were merged? I just want to know if the witness understands.

THE WITNESS: May I tell you in my own way?

MR. DICKINSON: No.

(Upon request the stenographer read the record as hereinbefore recorded, as follows:)

"Q. They were all owned in the same interest, were they not, by the same group of individuals?

"A. Yes, sir; the stock was merged.

"Q. But I mean before the merger, that the same people owned all four of the companies?

"A. Yes, sir."

MR. DICKINSON: I wanted to understand whether the witness knew what the question was. It is whether or not the same people before the merger of those four companies owned the stock of the companies that were merged. Do you understand?

THE WITNESS: Yes. The same people.

MR. DICKINSON: You have answered that, then.

By MR. LINDABURY:

Q. How soon after that early merger, which reduced the number in the way you say, was it that Mr. Gates and you talked about a further merger?

A. I would say offhand it was about a year.

Q. What was the occasion, then, for a further amalgamation or union of these companies?

A. He was going for us and we were inclined to go for him in the market; we were still competing. There was not enough demand for what we were making.

Q. Were the seven companies in a prosperous condition or were they having some difficulties?

A. They had plenty of difficulty, lots of it.

Q. Were business conditions more or less demoralized at that time?

A. They were bad; they continued bad.

Q. Then what happened?

A. Gates used to joke me, "You had better surrender and come in with us." That was all there was about it. I felt like a kind of Ishmaelite, with everybody's hand against everybody else, and there was no profit for any of us, or very little, and I know there was none for me, I will tell you that—

Q. And you concluded as you termed it in your testimony this morning, to surrender?

A. Yes, sir.

Q. That is, you sold out your plant?

A. Yes, sir.

MR. LINDABURY: As I am about to take up a new subject, and as it is within a few minutes of the usual time for adjourning, I would rather not continue now.

(Thereupon, at 3:40 o'clock p. m., an adjournment was taken until tomorrow, Friday, May 24, 1912, at 10:15 o'clock a. m.)

THIRTEENTH DAY.

Room 720 Custom House,
New York, N. Y.

FRIDAY, May 24, 1912.

The hearing was resumed at 10:15 o'clock a. m., before Special Examiner Henry P. Brown.

Appearances the same as heretofore noted.

JOHN STEVENSON, Jr.,

the witness under examination when the adjournment was taken resumed the stand.

CROSS EXAMINATION (Continued)

By MR. LINDABURY:

Q. Mr. Stevenson, did the Shenango Steel Works compete with the Carnegie Company; did you tell us that yesterday?

A. Yes, sir.

Q. In what?

A. Billets.

Q. Did they compete in anything else?

A. They competed a little in tin plate bars, sheet bars.

Q. In what territory?

A. Wherever we could get a customer, you know.

Q. That competition was very small, was it not?

A. It was not large.

Q. Where did you sell your billets?

A. About as far west as we could go was Anderson, Indiana.

Q. Yes. You had no market beyond that?

A. There was a slight market beyond that, but the freight rates were against us.

Q. I meant there was no market beyond that because of the freight rates.

A. Yes, sir.

Q. After you sold the tin plate works to the Tin Plate

Company, where did you sell your remaining product; your billets, for instance? To whom did you sell them chiefly?

A. Shall I put it that we were selling a good deal to ourselves, you know?

Q. Yes. Whom do you call yourselves? Your finishing mills?

A. Yes; that were run by separate corporations; because it was a gradual building up of the business.

Q. Did you sell largely to the tin plate mills?

A. Yes, sir.

Q. A large proportion of your product?

A. We sold to those who—in decency shall I say—

Q. Never mind about the decency. Did you sell to them? That is all I want.

A. We sold to those who bought us out.

Q. Yes; and a large proportion of your product, did you not?

A. Considerable, yes, sir.

Q. Those tin plate mills at that time had no steel mills of their own, had they?

A. They had not any.

Q. And the National Steel Company was formed a year or two after the Tin Plate Company was formed?

A. Yes, sir.

Q. And that took over your steel mill, did it not; purchased it, I think you said?

A. Yes, sir.

Q. And it purchased some other steel mills?

A. Yes, sir.

Q. And you understood that was for the purpose of furnishing the raw material to the tin plate mills, did you not?

A. Yes, sir. We knew that.

Q. You knew that?

A. Yes, sir.

Q. And after that time the product of the properties or mills that were taken over by the National went chiefly to the tin plate mills and the sheet steel and hoop mills that were afterwards acquired by the same people?

A. Yes, sir.

Q. You spoke yesterday of having sold your tin plate plant at New Castle to a pool. You did not mean that, did you?

A. A pool or a fool; which did you say?

Q. A pool; p—o—o—l.

A. Oh!

Q. That was a purchase by the gentlemen who organized the Tin Plate Company, was it not?

A. Yes, sir. It developed into a purchase. May I put it that way? It developed into a purchase.

Q. Was there a pool before that time to which you were a party?

A. No, sir; we were not in any pool before that time.

Q. The gentlemen whom you named, as I understood, Judge Moore and the others, bought you out in the exercise of an option which you previously gave, the option being for a million dollars. Is not that right?

A. Yes, sir; they bye and bye bought us out.

Q. They bye and bye bought you out? You mean, after some negotiation?

A. Yes; after four or five or six months.

Q. The options were given four, five or six months before the purchasing?

A. Yes, sir; that is what I mean.

Q. There was nothing in the nature of a pool connected with that transaction, was there?

A. No, sir.

Q. I thought you used the term "pool" in the sense of a combination of several persons. Is that right?

A. Well, here we are all around this table, if we wish to put it that way; but there was no incorporated company. That is what I mean. They had no legal status. May I put it that way?

Q. Yes. And therefore you used the term you did?

A. I am not always accurate in my language.

Q. None of us are. But I mean that all you intended to have us understand was that the gentlemen whom you mentioned as getting together obtained your option and then organized the American Tin Plate Company?

A. Yes, sir; that is exactly what I meant.

Q. And that is all you meant?

A. Yes, sir. I did not mean anything else.

MR. COLTON: Mr. Lindabury, you spoke of a million dollars. You were not interested in the amount particularly there, were you? There were two plants, you know.

MR. LINDABURY: I was speaking of a million dollars as the price of the tin plate plant, as I understood it.

MR. COLTON: There were two tin plate plants: one $1,000,000, and another, $1,550,000. I supposed you were not interested in the amount particularly.

MR. LINDABURY: I did not understand the evidence in that way. I thought the $1,500,000 was for the steel plant.

MR. COLTON: No. There were two tin plate plants.

By MR. LINDABURY:

Q. Mr. Colton now suggests that you testified yesterday to the sale of one tin plate plant for a million dollars, and a second tin plate plant for a million and a half dollars. Is that right?

A. That is correct.

Q. Where was the second plant?

A. About a mile lower down the river from the other one.

Q. Did you sell that at the same time as the other?

A. I gave the option at the same time that I gave the option for the other.

Q. What was the second one called, the million and a half one?

A. At that time we called it the Shenango Valley Tin Plate Company, because it was owned principally by the Shenango Valley Steel Company; well, not altogether. It might be said to be a subsidiary of the Shenango Valley Steel Company.

Q. But it was sold before you sold the steel plant of the Shenango Valley Steel Company, was it not?

A. We sold the Shenango Steel Company to the National Steel Company.

Q. That was later?

A. About two years later, I would think.

Q. So that you sold the tin plate plant of that company along with the tin plate works at New Castle?

A. Yes, sir.

Q. About the same time?

A. Yes, sir.

Q. And then two years later you sold the steel works of the Shenango Company to the National Steel Company?

A. Yes, sir; you have got it right now.

Q. What did you get from the sale of your steel works to the National Steel Company?

A. About $3,300,000 in stock; not in cash.

Q. Then you had remaining, I believe, wire works, or a wire mill, had you?

A. We sold that before we sold the steel works.

Q. You are quite sure of that, are you?

A. Yes, sir.

Q. To whom did you sell that?

A. Gates.

Q. To Mr. Gates?

A. The transaction occurred through Gates, yes, sir.

Q. I think that was the time when you said competition or bankruptcy or general conditions had reduced the number of wire mills from 46 to 11?

A. Yes, sir; and they got down to seven by the time Gates was after us.

Q. Four of them had been consolidated into the Consolidated Company, making the number at that time only seven?

A. Seven.

Q. You are pretty sure about that?

A. I am pretty nearly sure about that.

Q. Were there not a number of other wire works besides the seven that you mention in business in the country?

A. Well, they might have been doing a kind of peanut business; but they were not in it as far as any real business was concerned.

Q. How about the Roeblings of Trenton? Were they a peanut concern?

A. I would not say any ill thing of Roebling, no; no, they were not a peanut concern.

Q. Why did you say the others were all peanut concerns, then?

A. Well, we will call Roebling one of the seven that was left, if you like.

Q. Did you mean to include that company in the seven in your statement yesterday?

A. I would have to think to enumerate the seven.

Q. You had better enumerate the seven, if we are to have peanut business.

A. Well, there was Oliver, at Pittsburg.

Q. Yes.

A. And the Pittsburg Wire Company at Braddock.

Q. Yes.

A. That is two; and there was a concern at Newburg, up the river here, Newburg, New York.

Q. What was that called?

A. I do not know the precise title; I think something like the Newburg Wire Company, something like that.

Q. How many is that?

A. Three. Then I do not think that Washburn & Moen at that time had surrendered. We will call them in. I think I am safe in calling them in. That would be four, would it not?

Q. Yes, that would be four. Your arithmetic is all right.

A. Then there was a concern that I recall at New Haven. They had been in bankruptcy a time or two and had been reorganized to try and survive. That is five.

Q. A good many of those were hovering on the brink of bankruptcy, were they not?

A. Yes, sir.

Q. That was not an uncommon experience?

A. In the wire nail business at that time?

Q. That is what I mean. Go on, now. We have five.

A. There was another one run by a Dutchman down here near Philadelphia. It was kind of financed by Hoops & Townsend. I do not remember the man's name. Hoops & Townsend in the Iron trade—Phillips & Townsend.

Q. Phillips & Townsend?

A. I think that was his name.

Q. Philadelphia, did you say?

A. Yes; he busted. That is six, is it not?

Q. That is six, yes. Then your Consolidated; I suppose that was one of the seven, was it not?

A. No; I meant seven outside of the Consolidated. When I said seven I meant seven that were robust enough to talk of.

Q. Seven besides the Consolidated?

A. Seven really competing, you know.

Q. Give us the seventh then.

A. Well, I may not be just right in that, but I think there was one out here at Joliet; Sterling, Illinois, I think it was. They had a rod mill. I will not be sure that they made nails, but I believe they made wire.

Q. We will call it a wire mill. Wire mills usually made nails, did they not?

A. Most of them.

Q. The Consolidated Barb Wire Company?

A. No; that was not the name; a man named Griswold was interested in it.

MR. REED: The Laidlow Bale Tie Company?

THE WITNESS: No, sir. Then there were a few trifling concerns through the New England States that made small quantities of nails in packages, but that did not count.

By MR. LINDABURY:

Q. How about the Norton Company of Connecticut, associated with the Belleфont Nail Company. That was in business, was it not?

A. Yes, sir; they built a rod mill down there.

Q. I do not want much detail. I want to get along.

A. I do not remember their competing in nails, but they may have.

Q. But did they compete in wire products?

A. They made rods, I know that.

Q. Call it rods then. What about the Dillon & Griswold Wire Company of Sterling?

A. That is the one I was talking about, the Griswold Company.

Q. You did not get the name?

A. I did not get the name correctly, but it was at Sterling, Illinois.

Q. How about the Page Woven Wire Fence Company, of Adrian, Michigan, and Pittsburg, Pennsylvania?

A. Page was making fence at Adrian, but I do not recall

of his being in business at Pittsburg at that time, but he was later.

Q. He made a good deal of fence, did he not?

A. Later.

Q. No, at this time was he not doing a considerable business?

A. I know he went into the hands of a receiver.

Q. You said that was common, so we will have to leave that out. Did he do business at that time? Was he manufacturing at that time?

A. Yes; he was manufacturing.

Q. What about the Spencer Wire Company, of Worcester, Massachusetts?

A. I never heard tell of them.

Q. The Prentice Wire Company, of Holyoke, Massachusetts. Did you ever hear of them?

A. No, sir.

Q. What about the Janesville Barb Wire Company, of Janesville, Wisconsin?

A. That is the first I have heard of them.

Q. The Grand Crossing Tack Company of Grand Crossing, Illinois?

A. Yes, sir; I knew them.

Q. The Northwestern Barb Wire Company of Rock Falls, Illinois?

A. Rock Falls— I never heard of that place.

Q. Igoe Brothers, Brooklyn, New York?

A. He was a clerk who had left us and started with a trifling sum,—very much to his credit.

Q. He was none the worse from having started from your place, was he? He was well educated, was he not?

A. Yes; he was a smart young fellow. His competition was not of any account.

Q. It was not great, compared with yours?

A. It was a mere trifle.

Q. What about the Wright Wire Company, of Worcester, Massachusetts?

A. I never heard of them before.

Q. The Morgan Spring Company, of Worcester, Massachusetts and Cleveland or Youngstown, Ohio?

A. We were not competing against them.

Q. What about the Wickwire Company?

A. They were not in it on the competition.

Q. These concerns were all manufacturing wire, so far as you know, were they not—wire products, I mean?

A. Oh, yes, just as a green grocer selling cabbages on the street—

Q. Please don't do that. We have not time for that sort of thing. I want to know if they were not making wire products?

A. I suppose they were.

Q. Washburn & Moen were one of the largest in the country, were they not?

A. Yes, sir.

Q. And the Worcester Wire Company, was that not—

A. (Interrupting) I think that was Washburn & Moen.

Q. No, it was not.

A. At Worcester, Massachusetts?

Q. No, it was not.

A. I have been at Worcester. I have been at the Washburn place.

Q. I am speaking of the Worcester Company, of which we have already had testimony in this case. Do you not know them?

A. No, sir.

MR. LINDABURY: Your first witness, Mr. Buell, gave us some information about that company.

By MR. LINDABURY:

Q. The Cleveland Rolling Mill?

A. I told you they were a very strong company.

Q. They are not in your seven, however?

A. They should be in the seven.

Q. The Cleveland Rolling Mill Company and the Washburn & Moen Manufacturing Company were two of the strongest in the country, were they not?

A. They were strong.

Q. And are not in your list of seven?

A. Well—

Q. We will go on. How about the Oliver & Snyder Steel Company?

A. They did not make wire.

Q. Didn't they?

A. Not that I know of.

Q. Did they not make wire products?

A. Not that I know of. It was Oliver and Roberts.

Q. The Garden City—

A. (Interrupting) I called them Oliver at the beginning. I told you, Oliver.

Q. What about the Indiana Wire Fence Company? Did you know them?

A. No; I did not know them.

Q. I do not suppose you would claim to have known every wire manufacturer in the country, would you?

A. Oh, no, no; that would be very foolish.

Q. You mean you would be very foolish to make such a claim?

A. Yes, sir.

Q. The Garden City Wire & Spring Company. Did you know them?

A. No, sir.

Q. The Consolidated Barb Wire Company of Joliet. Did you know them?

A. That was Gates and Lambert and the rest of the crowd; that was the Consolidated.

Q. No, the Gates Company is called the Consolidated Steel & Wire. This is the Consolidated Barb Wire Company.

A. Without the Steel.

Q. It is another company. Do you know them?

A. I do not recall them.

Q. The Cincinnati Barb Wire Fence Company, of Cincinnati?

A. I believe there was such a company, now that you mention it.

Q. The Union Rolling Mill Company of Cleveland?

A. That was the Cleveland Rolling Mill I have been talking about.

Q. I do not understand so.

A. Oh, yes, I know them. I have been in their plant many

a time at Newburg, near Cleveland, four or five miles from Cleveland. The Chisholms were in it.

Q. The Government in their bill allege and set it out as a different company, and that is our information, that it is different from the Cleveland Rolling Mill Company.

A. I knew the owners.

Q. You mean the same people owned both, perhaps. That may be so, I do not know, but there were two separate corporations, as we understand, and so does the Government.

A. I do not know about that.

Q. You did not know it, if it were so?

A. No.

Q. It is your impression, I take it, that the same people owned both companies, anyhow.

A. Yes, sir.

Q. Who was the leading spirit in those companies?

A. At the start Henry Chisholm, a Scotchman, and then his sons followed on, William and Stuart.

Q. The number of competitors making wire products was not reduced quite so low as you thought yesterday, was it?

A. If you want to put it that way, you are welcome to.

Q. Is it a fact or is it not? You do not mind admitting to have forgotten something or having been in error?

A. Oh, I will admit I was in error, but then you know that was not competition.

Q. You do not regard the Roeblings as competitors?

A. The half of those you have mentioned were not in it when it came to business, real business. They did a litle local business.

Q. Is that true of the Cleveland Rolling Mill?

A. No, they were strong.

Q. Is it true of Washburn & Moen?

A. Yes, sir; they were very strong.

Q. I say, it is not true that they were non-competitors?

A. They were competitors.

Q. The number of manufacturers of wire products has been increasing, has it not, even since that date?

A. Yes, sir.

Q. Have you any idea how many there are now?

A. I don't know.

Q. The business has greatly developed, has it not?

A. It has very greatly developed.

Q. So that the amount of wire products now manufactured is several hundred per cent greater—

MR. COLTON: I object to his answering that question, unless he knows.

MR. LINDABURY: Will you please wait until I finish the question.

By MR. LINDABURY:

Q. So that the amount of wire products now manufactured is several hundred per cent greater than what it was at this date, is it not?

A. At the time I was in the business, ready to sell out, there were about 400,000 tons of wire consumed in the United States in a year. After we sold out, say within three years, Schwab told me that that year they would take 1,200,000 tons.

Q. Pardon me. You are a little away from the question.

A. The question was what.

Q. The question is what is now sold in comparison with what was sold then.

A. I could, of my own veritable, I believe, say that there is a million and a half tons sold now. I would think so.

Q. So it has increased from 400,000 to 1,800,000?

A. I said a million and a half. I would think more than that, really.

Q. It has practically quadrupled, then, has it not?

A. I should think so.

Q. A number of concerns besides yours were purchased by the American Steel & Wire Company when it was formed, were they not?

A. They did not buy us when they were formed.

Q. Either when they bought your company or before they bought your company they took in a number of others, did they not?

A. Yes, sir.

Q. Many of them, I suppose, were of the same character that you have alluded to as really not competitive with the larger concerns; is that true?

A. I do not know about that. They did not care for them much, you know.

Q. Do you know whether among those they bought were a number of such?

A. They bought the strong concerns.

Q. The strong concerns only?

A. They bought others.

Q. Were their mills scattered around the country?

A. Yes.

Q. I suppose that was some advantage in making up a large concern.

A. It was a very conspicuous advantage.

Q. It was a very conspicuous advantage?

A. For instance, I could not ship west beyond Anderson; but as to Joliet, they could supply the western territory, because it was near geographically.

Q. So, as a matter of fact, the plants they took in did not all compete with each other because of geographical location, did they?

A. They had an eye on those that would geographically distribute the best.

Q. That is not an answer to my question, although I will take your answer. I do not want what was in their minds, but am inquiring whether as a matter of fact the plants that they took in all competed; for instance whether the plants in the West competed with those in the East.

(Continuing after a pause.) If you do not know, I will go on to something else.

MR. DICKINSON: He has not said that he does not know.

A. I am trying to show that I did know; that they bought the eastern plants and they bought western ones.

By MR. LINDABURY:

Q. And they bought one to serve the eastern trade and another to serve the western trade?

A. That is what I mean, exactly.

Q. And those mills had not previously served the same territory?

A. No; the eastern mills could not serve the West on account of freight rates.

Q. To do a widespread and large business it was desirable to have plants spread about the country, was it not?

A. Certainly.

Q. You have told us of the increase of the output and its continued increase since the wire company was formed. Can you give us approximately the number of plants now in existence making wire—not the number of plants, but the number of different concerns, individuals, co-partnerships or corporations?

A. I do not know.

Q. The number has greatly increased, has it not?

A. Yes, it has.

Q. How long was it after you sold your wire mills to the Wire Company before you sold your steel plant to the National?

A. Offhand, I would say probably two years—a year and a half or two years.

Q. I wonder whether you are not mistaken about that. I have a memorandum to the effect that you sold the wire plant in January, 1899, and the steel works in February, a month later. (Continuing after a pause.) Mr. Stevenson, did you just say that you thought that two years intervened between the sale of the wire plant and the steel works?

A. I said two years, and then I corrected it to say that it may have been eighteen months only.

Q. Did you not sell the wire plant in January, 1899, and the steel works the next month?

A. Not so soon as that.

Q. I suppose you may be mistaken about the date, may you not?

A. Quite likely.

Q. I think that is what the record shows, but no matter. You sold a small tube works you had to the Shelby Company?

A. Yes.

Q. When was it you sold that with reference to the sale of the other plant?

A. It was the fall before I sold any of the other plants.

Q. Oh, it was?

A. Yes.

Q. Do you happen to remember the year?

A. When did we sell the tin plate mill; when was that? It was in August, but what year?

Q. December—

A. No, August.

Q. The August before that?

A. No, the August of the year—was it 1898? What year did the crowd, if I may use that name about them, take the tin plate mills?

Q. In 1898, as I understand.

MR. COLTON: December, I think.

THE WITNESS: Very well. Then we sold to the Shelby Company in mid-winter, 1897-98. You have it now.

By MR. LINDABURY:

Q. Nine months, or something like that, before?

A. Yes, eight or nine months before.

Q. That was quite a small plant, I think you stated—your tube works.

A. We had a capital of $200,000, of which $180,000 had been paid in.

Q. What kind of a plant had you?

A. A good plant. We made bicycle tubing.

Q. A good plant for making bicycle tubing?

A. Yes, sir, a very good plant. We made a million feet a month.

Q. How long had that been going?

A. About a year and a half.

Q. Bicycle tubing was not being called for so much then as it had been formerly, was it?

A. I just got in in the beginning of the boom.

Q. And you sold out at the end of the boom?

A. I sold out a litle before the end of it.

Q. And when you alluded to the gentleman who bought you out as being fools, I suppose you meant they did not see the recession of the boom as you did?

A. I should not have called them fools.

Q. Their foolishness, I suppose, was in not seeing the diminishing demand for that product, was it not?

A. Partly so.

Q. What did you mean by what you did say?

A. I meant this; that they thought that there was a declining market, and to secure the declining market they thought they had better buy us out.

Q. You thought it was a good reason for selling out, did you not?

A. Yes.

Q. So you looked at the matter from different angles?

A. Yes, and—

Q. Well, I do not care to pursue that any further.

Then, having sold out your last Shenango plant, you took your trip to Europe?

A. Yes, sir.

Q. You had, as you called it yesterday, fully shaken the apple tree; you had shaken all the apples off the tree?

A. Yes, pro tem.

Q. Apple tree shaking, in those days, was a pro tem affair, was it not? There were others engaged in apple tree shaking in those days, were there not?

A. Yes, sir.

Q. It was somewhat of a common practice?

A. Yes, sir; or an uncommon practice, if you would like to call it so.

Q. Call it either one you please. Those who shook returned to shake again, did they not?

A. Oh, I think not.

Q. No? When you sold these plants you did not enter into any contract not to enter into business again, did you?

A. They did not ask me to, nor did I.

Q. There was no attempt to prevent you, with all your knowledge and experience, from going into any branch of the steel business again whenever you chose?

A. No suppression in that way whatever.

Q. Having rested in Europe, you came back and became interested in the Sharon works?

A. Yes.

Q. Had they been built then?

A. They were organized in September, and I promised to join in November, at the end of November.

Q. What year was that?

A. 1899.

Q. How far is Sharon from the place where you had previously been operating?

A. About 20 miles up the river.

Q. What river?

A. The Shenango River.

Q. And what did you build there?

A. When you say "you," you mean the company?

Q. Yes, your company.

A. We built three blast furnaces, an open hearth steel plant, blooming mills to make billets, two rod mills, a wire mill, and a wire nail mill, and a tin plae mill.

Q. After the competion of that construction you entered into some arrangement with Mr. Graham with respect to your production of tin plate, did you not?

A. Yes, sir.

Q. And you said that you proposed to him or to him and his associates that you be allowed to make 10 per cent. of the output of tin plate?

A. You do not put it quite correctly.

Q. I may not have understood you correctly.

A. I offered to take 10 per cent. of the sales made.

Q. Oh, I see. You did not seek an arrangement which would give you 10 per cent. of the business of the country?

A. Oh, no. That would have been—

Q. Foolish, would it, under the circumstances? I mean altogether impracticable?

A. Well, it would have been very cheeky. It is a big country.

Q. You would not have thought of trying to shake the apple tree to that extent?

A. No, I would not.

Q. You said something about having agreed to maintain their price?

A. No, I did not; excuse me.

Q. Or the newspapers may have said it. I may have read it in the newspaper as having been said by you, and they had you wrong.

A. There was no agreement about that, none whatever.

Q. As a matter of fact, did you not arrange to manufacture for them; did they not take your products, in other words?

A. Yes, sir.

Q. You did not sell the product of your tin plate mill in the open market yourself, did you?

A. They sold it and gave me one-tenth of their own share of the business. If they sold 100,000 boxes of tin plate, they gave me 10,000 boxes. That was the deal.

Q. In other words, the arrangement was that they would employ or engage you to manufacture 10 per cent. of their output—I mean 10 per cent. of their sales?

A. Yes, sir; I want you to stick to "sales."

Q. Yes, I misspoke myself them That is, at their own plants they were to manufacture 90 per cent of their requirements and you were to manufacture ten per cent. of their requirements?

A. Yes. They had 200 mills—

Q. No matter about that. It was about in proportion to your capacity?

A. Yes; you have it right now.

Q. In other words, you having 10 per cent—

A. (Interposing). Of the mills—

Q. —of the mill capacity that they had?

A. Yes, sir.

Q. Your arrangement was that you were to manufacture for them 10 per cent of their requirements, whatever they were?

A. Yes, sir.

Q. That was the whole arrangement between you, was it not?

A. Well, they paid me cash on the 20th of the month for all that was shipped the previous month.

Q. I assume that they paid you—

A. That eliminated my debts—

Q. You mean they guaranteed sales?

A. If they were good for the money—

Q. But if they in their sales sustained a loss, do you mean that they made it good to you or that you bore it? That is what I meant by asking you whether they guaranteed sales.

A. Well, I do not like to detain you—

Q. Let it go, then.

A. Let it go, if you wish.

MR. DICKINSON: Do you withdraw the question?

MR. LINDABURY: I am not concerned which way it was.

THE WITNESS: I will tell you in a moment how it was. I got ten per cent of the price that they got.

By MR LINDABURY:

Q. Without regard to their collections?

A. No, no. You do not understand. If they made a bad debt, I bore my part of the debt as well as they did.

Q. Now I understand. There was no agreement as to the price at which they were to sell, was there?

A. No.

Q. They were to get the market price?

A. They sold the best they could.

Q. You had no doubt that they would sell to the best advantage they could?

A. That is right.

Q. So far as you knew there was in the transaction no agreement as to price with them, or any agreement with anybody else?

A. It varied like a thermometer; the market price went up and down, and they sold at whatever it happened to be.

Q. You got paid for what you supplied?

A. Yes, sir.

Q. That arrangement was before the Steel Corporation was formed, was it not?

A. Yes; it had no existence then.

Q. No existence at that time. Later on you analgamated or combined or merged——that is a better term——your company with the Union?

A. Yes, sir.

Q. That had been in existence some time before, had it?

A. About the same time as ours.

Q. Both were formed about the same time?

A. Perhaps they were six months before us.

Q. Yours was at Sharon and theirs was at Donora?

A. Yes, sir.

Q. How far apart are they?

A. About a hundred miles.

Q. As I inferred from your testimony yesterday, the Union Company had a very good supply of ore and coal at the time you merged, is that so?

A. We had a very good supply.

Q. You mean the Shelby Company?

A. The Sharon Company.

Q. The Sharon Company, I mean.

A. Yes, sir; very good.

Q. I was confused in my recollection and thought that the ore to which you referred was owned by the Union and not the Sharon?

A. No, sir.

Q. But it was the other way, was it not?

A. Yes, sir.

Q. Did the Union have a good supply of ore, or were they deficient in ore supply?

A. I thought they were deficient in ore supply.

Q. And how about coal?

A. Well, we had a good supply of coal.

Q. And did they?

A. Not as much as we had; nothing like as much.

Q. How many blast furnaces did the Sharon Company operate at that time?

A. One; and two more were being built.

Q. And how was the Union in that respect?

A. Why, their blast furnaces were laid out on paper only; they hadn't any.

Q. What was the capacity of the one furnace that you had?

A. Between 400 and 500 tons a day.

Q. Had not the Union any blast furnaces at all?

A. Not at that time. That was one of the objects of the merger.

Q. I see, because the one had what the other was deficient in?

A. Yes, sir. We had the ore.

Q. And putting the two together, each supplemented and complemented the other?

A. Yes, sir; that was a good thing.

Q. It was a good thing in that way?

A. Yes, sir.

Q. It was really a proceeding in what we call integration?

A. Inte—what?

Q. Nowadays we are calling the completion of plants, so that they have everything from the raw material up to the finishing process, integration.

A. Well, it is the opposite of disintegration.

Q. Yes; it is the opposite of disintegration.

A. We know what that means. We build up and that makes integration; the Government tears down and that makes disintegration.

Q. I take it that the Union Company was in good financial condition, was it?

A. Oh, I suppose so, yes; I never thought otherwise.

Q. Its financial strength perhaps was a consideration in making the merger, was it?

A. A little.

Q. Was the financial condition of your company such as to make a merger desirable from that point of view also?

A. Not at that time; not very much so at that time.

Q. Do you know how much your company owed on notes?

A. At that time?

Q. At the time of the merger with the Union?

A. With the Union?

Q. Three million dollars, was it not?

A. I wouldn't like to say that; I think it was less; but we had been promised the proceeds from an issue of bonds. Shall I say tentatively promised. That might be safer. The proceeds were not forthcoming. Instead of a bond issue we united. Now you have got it.

Q. You were seeking then to arrange your finances before you united, as you call it?

A. Yes, sir; we were seeking to add to our finances.

Q. Your company was pretty well extended, in view of its financial resources, was it not?

A. Yes, sir.

Q. Now, let me see. How long had you operated the Sharon Company before the final sale of the merged company to the Steel Corporation?

A. Offhand, I would think about two years.

Q. During that time you had competed with the Steel Corporation to some extent?

A. You might think so, but I don't.

Q. There had been no real competition between them, do you mean to say?

A. I mean this, Mr. Lindabury, that pig iron had advanced from $14 a ton to $22, because the whole country had taken a boom on, shall I say?

A. Yes.

A. And there were enough orders to go around for everybody; there wasn't much competition.

Q. Yes.

A. That is what really happened. The country absorbed all the product of everybody.

Q. What articles did you produce and sell of the same kind that the Steel Corporation produced and sold?

A. We sold a few billets.

Q. You did not sell many billets, did you?

A. Not many. Locally, mostly to the local hoop mill.

Q. To the local hoop mill?

A. 100 tons a day.

Q. Strike that out, then. What else was there that you sold in common with them?

A. With whom?

Q. With the Steel Corporation.

A. We sold wire and nails.

Q. Now, by that time—

MR. DICKINSON: Have you finished?

THE WITNESS: And tin plate.

MR. LINDABURY: I will take up the other things in a moment.

MR. DICKINSON: I want him to finish.

MR. LINDABURY: I want him to finish also, but I will stop now to ask him about wire products.

By Mr. Lindabury:

Q. At that time the number of producers of wire products had greatly increased over what it was when the American Wire Company was formed, had it not?

A. I think that was the time that Page, of whom you spoke, had come in, and not at the other time.

Q. And many others had come in, had they not?

A. Yes, sir; some others.

Q. There had been a great development in the manufacture of wire products, had there not, at that time?

A. Yes; there had been a great demand, and that brought on the development.

Q. Yes; that brought on the development?

A. Yes; now you have it.

Q. And that demand had been answered by the organization of new concerns?

A. Yes, sir.

Q. Whether you actually competed or not, you did sell in the same market where the Steel Corporation sold their products?

A. Yes; all we made.

Q. What else was there that you made and sold of the same character as the products made and sold by the Steel Corporation?

A. A few billets.

Q. You mentioned that. Was there anything else of account?

A. No; if you exclude tin plate, and you have already talked about that.

Q. Excluding the tin plate, there was nothing else worth mentioning?

A. That is right.

Q. Now, going back to the wire situation for a moment, had there been any considerable business done in the exportation of wire products before the American was formed?

A. We had done a little, but not as a profit.

Q. Had anybody done any at a profit before that time, so far as you know?

A. Well, it was mighty little.

Q. Has that business developed since?

A. Enormously.

Q. Through whose operations?

A. The U. S. Steel Corporation has done more than all the others put together to develop the foreign trade.

Q. Could a considerable foreign trade have been developed by any except a large, strong company?

A. We couldn't because we were living away from the seaboard, and we were not in touch with the chartering of vessels and the export business; we couldn't do it.

Q. Was there any company in existence—

A. Not in the United States.

Q. I mean in the United States.

A. No.

Q. Was there any company in existence, however well and wisely managed, that could have developed a considerable foreign trade before the American Steel & Wire Company was formed?

MR. COLTON: I object to that as speculative.

A. Both the Germans and the English have done a good deal of that.

By MR. LINDABURY:

Q. I said in the United States. Was there any company large enough and strong enough before the American Steel & Wire Company was formed, to develop a foreign trade of any account?

A. Not in wire products that I know of.

Q. I mean wire products.

A. Not that I know of.

Q. It would necessarily need large facilities and a lot of capital.

A. And need a good deal of brains besides.

Q. But it would need all of them?

A. Yes.

Q. And some of the companies had the brains, although they did not have the other facilities?

A. Usually that happened.

Q. As to the competition in wire products, after the Steel

Corporation was formed, during the two years before you sold out the Sharon works, was there any of this destructive or cutthroat competition, or the stand and surrender practice carried on during that time in the business?

A. Not that I know of. We sold all we made, I told you, and had no thought of doing it.

Q. You spoke of surrendering, one time and another, in your testimony, referring to the earlier days?

A. Yes, sir.

Q. And being called upon to surrender by somebody or other at one time?

A. Yes.

Q. Were any such practices pursued after April, 1901, in the business in which you were engaged, which tended to drive out competition or destroy rivals? Were there any unfair practices in the trade during those two years?

A. Not toward us.

Q. Were there any on the part of the Steel Corporation toward anybody, so far as you observed?

A. Well, not that I know of. But not to us.

Q. Do you know of it to anybody, I mean. Was competition open and fair?

A. Yes, sir; I liked the competition. If you are bound to have competition, theirs was good competition.

Q. Well, why, is what I want to know.

A. They did not go in in any cutthroat way. I told you yesterday about Frank Baackes, but he had got religion by that time. (Laughter.)

Q. Go on.

A. I don't see anything particularly to laugh at.

Q. Had they all gotten religion? In other words, was competition fair and open and on the square and aboveboard during this period of two years?

A. Yes, sir.

MR. DICKINSON: Of what two years are you speaking?

MR. LINDABURY: The two years he was in business after the Steel Corporation was formed, and before the Union was sold.

By Mr. Lindabury:

Q. Were there any unfair practices in the trade during that time to cause anybody to surrender or sell out in fear of his life?

A. They didn't practice it towards me.

Q. Or so far as you know toward anybody?

A. No; but that was limited—

Q. You have answered my question.

A. Not completely.

Q. All right.

A. I will show you how. Because I got ten per cent of the tin plate, and they would be cutthroating themselves, wouldn't they, if they cutthroat me?

Q. I was not speaking of tin plate, but I was speaking of wire nails. You sold wire nails in the open market?

A. Yes.

Q. In competition with anybody?

A. Yes, sir.

Q. You had no arrangement as to output or price as to wire nails?

A. None whatever.

Q. You sold all you could?

A. Sold it all.

Q. And got the market price?

A. Yes, sir.

Q. Did you in that meet with any unfair practice or any unfair competition?

A. No.

Q. Baackes was managing the wire business then?

A. Yes.

Q. And he did get religion.

A. Well.

Q. Why did you sell out to the Steel Corporation?

A. Because I was hard up.

Q. In what way? You mean financially, I suppose.

A. Yes, that is what I mean. That was the main reason why I surrendered.

Q. And do you know how it came about?

A. Yes; I know something about it.

Q. Which side approached the other, and who?

A. Why, it was the Union Steel Company who spoke about it to us,—the merged company.

Q. I understand that. I am not alluding to the merger, of course; I am alluding to the sale to the Steel Corporation. Who proposed that?

A. The Union Steel Company mentioned it to us.

Q. I do not mean within yourselves as between the Sharon and the Union Steel people, but as between the merged corporation and the Steel Corporation, which approached the other to sell or buy? You were hard up, you say?

A. Yes.

Q. And wanted to get out?

A. Yes, sir.

Q. What was done about it? Why did you seek to bring that about?

A. Why, I sold to them.

Q. But how were you able to do it? Who approached the Steel Corporation with any proposition?

A. The President of our Company was a broker here in New York.

Q. What was his name?

A. Darr, George Darr, but he is now dead.

Q. Do you remember who you got to go to the Steel Corporation?

A. I did not get anybody.

Q. I do not mean you individually, but I mean your company, the merged company.

A. Darr started those negotiations.

MR. COLTON: I object to that, unless he knows.

MR. LINDABURY: I am asking for his understanding.

By MR. LINDABURY:

Q. That was your understanding, that he started those negotiations?

A. I can safely say that I know that. It is not my understanding; I know it.

Q. This was by authority, I suppose, of the owners, was it not? He was authorized to do it, was he not; or did he start it and then report?

A. He saw the financial condition; he knew of it as president. I was the principal owner at that time, and of course he could not readily act without my consent.

Q. You were the principal owner of the merged company, were you, or the Sharon?

A. No, of the Sharon Company. He started negotiations that ultimately led up to our coming together. He was in a position here in New York to do that; that is, to reach those who could speak for the Steel Corporation, either to get us some more money or speak to the Steel Corporation.

Q. He reported to you and the others?

A. Yes, sir; the directors.

Q. He reported his negotiations?

A. Yes, sir.

Q. And they ultimately resulted in the acceptance of a price?

A. Yes, sir.

Q. I will not go into the details of that, because I think counsel did yesterday, but I will ask you whether or not what you got exceeded the value of the property you sold?

A. I will be very positive on that. We sold it at the cost of the plant and the accrued profits, as shown by expert accountants. That man there was one of them.

Q. To whom do you refer? Do you refer to Mr. Filbert of the Steel Corporation?

A. Yes, sir.

Q. What pains were taken to ascertain what the accrued profits were?

A. It took them, I would think, over two months to go through our books and find out.

Q. Were they ascertained with care and accuracy, so far as you know?

A. We had a set of accountants and they had a set of accountants, and then the two parties referred it to each other and finally agreed.

Q. And so far as you know, the agreement was according to the exact earnings? That is, they ascertained accurately so far as anybody could what the accrued earnings were?

A. I think so.

Q. That was what was intended?

A. Yes, sir; that was the intention.

Q. You say you received the cost of the plant?

A. Yes, sir.

Q. Plus the accrued earnings which remained and had not been divided?

A. That had not been paid out in dividends.

Q. That is what I mean.

A. Yes.

Q. What do you say with regard to the ore properties?

A. We had stumbled into luck, as I told you, in getting such an immense body of ore, and the ore royalties in those days were about from 20 to 30 cents a ton, usually; so we sold the ore property for five million dollars. That was a condition of the deal going through.

Q. Was that the first figure which was fixed?

A. Yes, sir; that was a fixed sum; unless they took the property at that, we would not deal with them.

Q. That is the fixed sum was the price for the ore and the coal property, I take it?

A. And the coal property, too.

Q. Ore and coal property; five million dollars?

A. No; it was five million dollars for the ore only, and the coal property at a thousand dollars an acre, which was a moderate market price—very moderate.

Q. And the cost of the steel plant as shown by the books?

A. Yes, sir; now you have got it.

Q. And the accrued profits as shown by the books?

A. Yes, sir.

Q. Taking it all in all, adding them together, I renew the question, as to whether or not the price you got was any more than the real value of the property, as you estimated it.

A. No; if I had had a couple of million dollars, I would not have sold the property at that price. It was a low price. I still think so.

Q. Were you coerced or forced or induced to sell by any other consideration than your financial condition?

A. None whatever.

Q. You said something about the tube business, and I want to ask you with respect to that, as it existed in the year 1902.

Do I understand that you built a tube mill at Sharon or started one or contemplated one?

A. Yes; I started one.

Q. You started to build it?

A. Yes, sir.

Q. That is the reason I wanted to ask you, as of that date. What other concerns were in the tube business at that time? You mentioned one or two yesterday.

A. There were quite a number.

Q. You mentioned one or two yesterday, the National Tube Company at McKeesport and a plant at Youngstown?

A. Yes, sir.

Q. You did not say that that was all.

A. There were others.

Q. You might have been so understood.

A. I knew there were others.

Q. Can you name some of them?

A. There was a plant down at Riverside.

Q. Suppose I name you a list and see if you can recall them. It may take less time.

A. Yes, sir.

Q. What was the name of the plant at Youngstown?

A. The Youngstown Sheet & Tube Company.

Q. Take the Aermotor Company. Do you know about them?

A. No, sir; I do not know them.

Q. The Alabama Tin & Iron Company?

A. I do not know that they made tubes.

Q. The A. M. Byers Company. Did you know them?

A. Yes, sir, I knew them.

Q. That was an important concern, was it not?

A. Yes, sir.

Q. The Carnegie Tube Company?

A. I did not know them.

Q. The Crane Company?

A. The Graham Company?

Q. Crane, C-r-a-n-e.

A. Yes, I knew of them.

Q. The Harrisburg Pipe & Pipe Bending Company.

A. I do not know them.

Q. The LaBelle Iron Works?

A. Yes, sir; I knew them.

Q. The Longmead Iron Company?

A. I do not know them.

Q. The Mark Manufacturing Company of Youngstown?

A. I do not know them.

Q. The Monongahela Tube Company.

A. Is that Rhodes' concern?

Q. I do not know.

A. I do not think so.

Q. Do you recall the Monongahela Tube Company?

A. No, sir.

Q. The Reading Iron Company. Of course you know them?

A. Yes.

Q. That was a very large concern, was it not?

A. They were a good concern; they were quite a large concern.

Q. The South Chester Tube Company. Did you know them?

A. Yes, sir.

Q. Spang, Chalfant & Co?

A. Yes, sir; they were a large concern.

Q. And the Tyler Tube & Pipe Company?

A. Yes, sir.

Q. Those were all important?

A. Yes, sir.

Q. The Youngstown S. & T.?

A. Yes, sir; that is the Youngstown Sheet & Tube Company.

Q. You named them?

A. Yes, sir.

Q. In regard to the steel business generally, during this period in 1902 or 1903, there were a number of large and important concerns in the business outside of the Steel Corporation's subsidiaries, were there not?

A. Yes, sir.

Q. Name some of the more important ones.

Mr. Dickinson: Of what period are you speaking?

MR. LINDABURY: 1902 and 1903.

A. The Pennsylvania Steel Company, the Cambria and the Bethlehem.

By MR. LINDABURY:

Q. And the Lackawanna?

A. The Lackawanna, yes. The Youngstown Sheet & Tube Company; that I have mentioned; and another one near them there.

Q. Jones & Laughlin?

A. Yes, sir; Jones & Laughlin was a very large plant.

Q. And the Republic?

A. Yes, sir; the Republic at Youngstown and other places.

Q. All of these were making a considerable variety of steel products?

A. Yes, sir.

Q. And selling them in increasing amounts, were they not?

A. In the open market in increasing amounts.

Q. They were all flourishing?

A. They were all busy.

Q. Take the National Steel Company, when that was formed: Do you know what their ingot capacity was in comparison with others?

A. I would hesitate to answer that without referring to the published statistics.

Q. It was not a very large percentage, was it? Was it more than 15 per cent? Are you able to answer?

A. Not without referring to statistics.

Q. The Government's petition alleges that they made 1,800,000 tons of steel, or rather that they had a yearly capacity of 1,800,000 tons, amounting to approximately 12 per cent of the steel ingot output of the United States. Does that about accord with your recollection?

A. I would not have thought that they made as much as that.

Q. Not as much as that?

A. I would not think so.

Q. I suppose these figures come more or less from the producers?

A. I do not know whose figures you have got.

Q. Generally these statistics we have are gathered from statements made by producers themselves, are they not?

MR. DICKINSON: I call your attention to the fact that you have read from the bill and that your answer admits 12 per cent.

MR. LINDABURY: I am leading up to something else.

A. They really had about enough steel to supply their own internal finished consumption. Do you catch the idea?

By MR. LINDABURY:

Q. I do, yes.

A. In wire and tin plate, and they were not making pipe at all.

Q. That concern did not obtain any monopoly of the steel business?

A. Oh, no.

Q. It was quite out of the question for it to do it, was it not?

A. It was totally out of the question.

Q. You mean sheet and tin plate, do you not?

A. Tin plate and sheet.

Q. Do you know what the tonnage of steel products of the Sharon Company was, the merged company, when the latter was sold out to the Steel Corporation?

MR. DICKINSON: You mean the Union Company?

MR. LINDABURY: I call it the "merged" so as to distinguish.

A. I think we were making from about a million and a half to a million and three-quarter tons per annum.

MR. DICKINSON: Tons of what?

MR. REED: Tons of what?

THE WITNESS: Steel in different forms, in different finished forms.

By MR. LINDABURY:

Q. How much pig iron did you make in 1902 at Sharon?

A. I do not recollect.

Q. I have figures showing—

MR. DICKINSON: I object to that statement—

MR. LINDABURY: You are right, Judge. I will withdraw that.

By MR. LINDABURY:

Q. Was the pig iron over 102,380 tons? I do not know whether you understand the question.

A. Yes; I caught the question.

Q. I am asking whether it was over 102,380 tons?

A. No, I do not suppose it was. I do not know accurately.

Q. Very well. Was it, in 1903, over 82,119 tons?

A. Well, we were building two blast furnaces—

Q. Never mind about the explanation. We will get that afterwards. Please just answer the question now. Had it not dropped from 102,000 tons in 1902 to 82,000 tons in 1903?

A. Probably.

Q. Was the ingot production more than 236,767 tons?

A. I do not suppose it was.

Q. That was in 1902?

A. I do not suppose it was more than that.

Q. Was it over 182,682 tons in 1903?

A. Probably not.

Q. You spoke of alterations and improvements. I will ask you whether or not, if all your additions had been completed, the pig iron capacity when completed would have exceeded 400,000 tons?

A. No. That is what I was trying to tell you at the beginning, that that was the object in the Union going in with us—

Q. Never mind about that.

MR. DICKINSON: Let him answer the question.

MR. LINDABURY: He is not answering the question, that is the trouble.

MR. DICKINSON: I think he is answering it.

MR. LINDABURY: No, he is not. I asked him if the pig iron capacity exceeded a certain amount, and he went on to tell about why the Union Company went in with them.

MR. DICKINSON: I think you will find that he answered the question.

(Upon request the stenographer read the question and answer as follows:)

"Q. You spoke of alterations and improvements. I will ask you whether or not, if all your additions had been completed, the pig iron capacity when completed would have exceeded 400,000 tons?

"A. No, that is what I was trying to tell you at the beginning, that that was the object in the Union going in with us—"

MR. DICKINSON: Do you not want the answer to the question?

MR. LINDABURY: Yes; I want an answer to the question now.

THE WITNESS: I do not think it would.

MR. COLTON: Was that the Sharon Company?

MR. LINDABURY: The Sharon Company only. I am speaking entirely of the Sharon Company now.

By MR. LINDABURY:

Q. Had the additions and improvements and alterations of the Sharon Company all been completed, would the capacity in ingots have been over 350,000 tons? You see it was 182,000 tons in 1903—

MR. DICKINSON: Let him answer without arguing the matter with him.

MR. LINDABURY: I am asking him whether it would have come up to over 350,000 tons.

A. That is a speculative question.

By MR. LINDABURY:

Q. Were not the improvements and additions designed to give a capacity of 350,000 tons and no more?

A. I think you are about right.

Q. At Sharon only?

A. At Sharon only.

Q. Now, with regard to the Donora plant. They were not making any ingots at all, at that time, in 1902 and 1903, were they?

A. No, sir.

Q. But they had a plant that they were projecting for the purpose of making ingots?

A. Yes, sir.

Q. Was not the projected or proposed capacity 374,400 tons?

MR. DICKINSON: You mean the Union?

MR. LINDABURY: I mean the plant at Donora.

A. I do not know what their projections were of my own knowledge.

By MR. LINDABURY:

Q. I am trying to test your figures with regard to the capacity. I am referring to the figures you gave us a little while back. Assuming that the total capacity in ingots of the Sharon plant, when fully completed was 350,000 tons and the Donora plant—

MR. DICKINSON: You mean the Union now?

MR. LINDABURY: No, the plant at Donora. One was at Sharon and the other was at Donora.

MR. DICKINSON: It was the Union Steel Company located at Donora.

By MR. LINDABURY:

Q. I will try to complete my question. Assuming that the total capacity in ingots, of the Sharon plant when fully completed was 350,000 tons and the capacity of the Donora plant was 374,400 tons, that would make 724,400 tons?

A. Yes, sir.

MR. DICKINSON: Wait a minute. I object—

MR. LINDABURY: Please let me finish the question.

MR. DICKINSON: You have finished the question and he has answered it.

MR. LINDABURY: He was simply assenting to the addition of two figures. Do you object to a mere addition?

MR. DICKINSON: It is more than an addition. The question is excepted to because it is not in proof that the capacity of the Donora plant was 374,400 tons, and that is a mere statement of counsel.

MR. LINDABURY: To that I answer that counsel has a right on cross examination to assume some things. You cannot prove your whole case at once, and that is merely assuming that two and two make four, and in this case the witness simply assented to that proposition.

By MR. LINDABURY:

Q. Assuming that the combined capacity in ingots was as stated in my question, how many tons of finished product could you make from that? I mean finished product such as the merged company was proposing to make, or as the two together were making, I will say.

A. I would not think they would make over 600,000 tons. I would not think they would make any more than that, and probably less.

Q. Then your estimate of a million—I wonder what that was.

A. I will clean that up for you if you will give me a chance.

Q. No, never mind. I have no doubt you will give us your best recollection or explanation of these matters, but your testimony as to a product of a million and a half was based upon an assumed larger ingot capacity then than 725,000 tons?

A. No, I made a mistake.

Q. Then, please correct your mistake.

A. I wanted to tell you that in hastily figuring here I made a mistake and said 1,750,000 instead of 175,000 tons.

Q. That is quite a difference.

A. Yes. I got the decimal point wrong in figuring here. I wondered what in the world was the matter. I did not even call it as much as you have called it—300,000 tons.

Q. This is what you had after you sold out?

A. I would like to have that corrected in the record.

Q. That will be corrected. That is what you were making when you actually sold out?

A. Yes; about that, about that production.

Q. What is that figure, again?

A. At the rate of about 175,000 tons a year.

Q. Where is that—at South Sharon or at both?

A. At Sharon.

Q. Because they had not yet any production at Donora?

A. The steel works were not built there. Now you have got it straight.

Q. That is what I wanted to get at and what I asked you a while ago. What percentage was that of the total steel production of the country, roughly speaking?

A. Well, I would call the production up to that time about 12,000,000 tons a year, the total. I would think it would be that.

Q. Less than one and a half per cent.?

A. Less than two per cent.

Q. That was the business you sold to the Steel Corporation?

A. Yes, sir.

Q. Did the Steel Corporation, by reason of that purchase from you, that is the merged company, obtain a monopoly in any way of the products that you had been manufacturing?

MR. COLTON: I object to that. That calls for an answer involving an opinion on a question of law.

By MR. LINDABURY:

Q. I will ask you to answer that. Did they, by reason of this purchase from you, obtain a monopoly in any of the products you were making?

A. No, sir.

Q. Did they already have a monopoly in any of those products?

A. No, or I could not have existed.

Q. That would be true of a good many others that existed and flourished, would it not? I mean the existence and flourishing of a good many others that you have named would show the same thing, would it not?

A. Yes, the flourishing goes with the good times, you know—high prices.

Q. Existence in the case of these competitors, however, has been maintained in good times and bad times ever since, has it not?

A. Some of them.

Q. Has not the Corporation's percentage of the product of practically all these things decreased, and the percentage of the product of the independents increased ever since that date?

A. I think it has, as a general statement.

Q. How did the product of the merged company, at the time of the sale, compare with the product of the Pennsylvania Company, for instance?

MR. COLTON: I object, unless he knows.

By MR. LINDABURY:

Q. Very much less,was it not? Take ingots.

A. We did not compete, because they made rails, you know.

Q. I am not speaking now of competition, but of production.

A. The Pennsylvania Steel Company were much larger, and so were Cambria and Jones & Laughlin.

Q. So were others?

A. Yes, sir.

Q. What I was endeavoring to get at was the relative capacity of the merged company when it was sold out, compared to a number of the others of these independents. It was much smaller in its productive capacity, was it not, than any of these large ones you have named?

A. Yes, sir.

Q. Are you in business now?

A. Yes, sir.

Q. I mean are you in the steel business or some other business? I think you said you were president of a bank.

A. Oh, that is very small.

Q. But you are engaged in some business. Are you in the steel business?

A. I am making motor trucks and parts that go into automobiles, the steel parts.

Q. Where?

A. In Sharon.

Q. Have you a company?

A. Yes, sir.

Q. How long have you been doing that?

A. About four or five years. Five years, I think. Before that I was making ordnance for the Government.

REDIRECT EXAMINATION.

By MR. COLTON:

Q. In what parts of the United States did you sell wire and nails?

A. My favorite territory was from Chicago north, up through Iowa, Wisconsin—

Q. Name as many states as you can where you sold it?

A. Minnesota, Wisconsin, Iowa, Illinois.

Q. Did you, at times, come into competition with the American Wire Nail Company, located at Anderson, Indiana?

A. Yes, sir.

Q. In what states did you come in competition with the American Wire Nail Company, located at Anderson, Indiana?

A. Illinois, I suppose, and the West. We sold them a large number of their billets, you know.

Q. But in what products did you come into competition?

A. They had a rod mill and a wire mill and a nail factory, and we made the steel for them.

Q. And you sold in competition with them, you say, in Illinois and west?

A. Yes, sir.

Q. How far west?

A. Why, we shipped out to Denver sometimes.

Q. Did you sell in competition with the I. Ellwood Manufacturing Company?

A. Yes, sir.

Q. In what territory?

A. Iowa and west.

Q. What states do you mean by "the West"?

A. Dakota and Nebraska. Lincoln, Nebraska, for instance.

Q. The I. L. Ellwood Manufacturing Company and the

Ellwood Wire & Nail Company are located in Illinois, are they not?

A. De Kalb, Illinois. I thought it was De Kalb, Iowa. Where is De Kalb, Iowa or Illinois?

MR. REED: Illinois.

THE WITNESS: Illinois.

By MR. COLTON:

Q. You came into competition with the Consolidated Steel & Wire Company?

A. Yes, sir.

Q. In what parts of the United States did you come into competition with the Consolidated Steel & Wire Company?

A. Chicago, east, and Chicago to the north and northwest.

Q. Chicago east to what points?

A. Down to about the Alleghenay Mountains. They had a mill at Allentown that had a geographical distribution there; Allentown, Pennsylvania, near Bethlehem.

Q. How far south?

A. We did not ship very much south.

Q. At times, how far did you ship south?

A. Cincinnati. But the Oliver plants located on the river at Pittsburg and plants up at Braddock had the advantage in freight rates by river. Coal barges took the stuff down very cheaply as compared with rail.

Q. Did you ship by water yourself at times?

A. No; very rarely.

Q. You did at times?

A. Yes; rarely.

Q. And what points would you reach when you shipped by water?

A. Cincinnati, Louisville.

Q. And with what companies would you come into competition then?

A. The Oliver Company, in Pittsburg, and the Gates concern at Braddock.

Q. In what parts of the country did you come into competition with the Pittsburg Wire Company?

A. On the river; the territory of which we were just speaking.

Q. In what different states would that be?

A. Ohio, West Virginia and Kentucky.

Q. In what different states did you come into competition with the American Steel & Wire Company of Illinois, which was composed of the following concerns: American Wire Nail Company,——

A. Of Anderson, Indiana.

Q. (Continuing) the I. L. Ellwood Manufacturing Company and the Ellwood Wire & Nail Company, the Consolidated Steel & Wire Company, the Salem Wire Nail Company, the H. P. Nail Company, the American Wire Company, and perhaps a few others?

A. In the west and middle west and the west and northwest. Will that be precise enough? The middle western states and the northwestern states?

Q. I wish to ask you whether, if all of the following companies were combined into a single company, they would be large enough to build up an export trade without combining other companies with them: The American Wire Nail Company, located at Anderson, Indiana, the I. L. Elwood Manufacturing Company and the Elwood Wire & Nail Company, located at DeKalb, Illinois, the McMullen Fence Company, located at Evanston, Illinois, and the Consolidated Steel & Wire Company, located at various places which I will name from time to time, first, Joliet, Illinois; the Consolidated Steel & Wire Company, located at St. Louis, Missouri, the Consolidated Steel & Wire Company, located at Cleveland, Ohio, the American Wire Company, located at Cleveland, Ohio, the H. P. Nail Company, located at Cleveland, Ohio, the Salem Wire Nail Company, located at Findlay, Ohio, the Consolidated Steel & Wire Company, having a plant at Rankin, Pennsylvania, the Consolidated Steel & Wire Company, having a plant at Allentown, Pennsylvania. Now, I would like to have all of that question read before the answer is given, and I ask you whether a company composed of all those plants, located as they are on the Missouri River and at Cleveland and in the various places, would be capable of building up an export trade without combining the other

companies subsequently taken into the American Steel & Wire Company of New Jersey.

(To the stenographer.) Will you read the companies to him?

A. I know the companies. Do you wish him to read it?

Q. No.

A. I would readily say not successfully, because they are located too far away from the seaboard. The only company you have mentioned that could develop a foreign trade successfully was the one located at Allentown.

Q. Where was it located?

A. About three miles from Bethlehem, Pennsylvania, between New York and Philadelphia, say about 70 miles from Philadelphia.

Q. How about the one located in St. Louis?

A. They could not possibly compete where a rail freight came in, but they might do a little by shipping down to New Orleans if they could get a vessel there; but I wouldn't think they could successfully compete for foreign trade.

Q. Would you say that those plants were so distributed as to reach most of the territory in the United States?

A. Yes, sir.

Q. There was not any need of further integration to reach most of the territory in the United States, was there?

A. That is a hard question to answer.

Q. Answer it to the best of your ability.

A. Well, I will put it this way, that integrated—is that the word?

Q. I do not care about the word integrated. I mean did that combination of plants, located as they were in those various places, need to take in additional plants to reach the different parts of the United States?

A. Well, I will answer that combined they could more successfully do it. Is that the way to put it?

Q. If combined with others, do you mean?

A. If they were all combined they could more successfully distribute throughout the United States.

Q. If they had——

A. They could more successfully than they could disintegrated.

MR. LINDABURY: You are talking of wire fence now?
MR. COLTON: Yes; wire fence.

By MR. COLTON:

Q. I am assuming that all of those plants I have named to you have already been combined, and what I am asking you is whether it was necessary for them to combine the others that subsequently went into the American Steel & Wire Company of New Jersey in order to reach the various parts of the United States?

A. Well, they could reach the United States without combining, but they could do it better if they were combined.

Q. You mean if they took in everything they could do it better?

A. I think they could.

Q. If they already had several plants in Pennsylvania, in the western part of the state, did they need to take in any more plants in the western part of the state in order to have better distribution?

A. Pennsylvania does not use as many nails as the west, you see. If your plant was at Joliet, Chicago itself could take all the nails you could manufacture, and do it every year—and more, too.

MR. LINDABURY: Chicago itself?

THE WITNESS: Chicago itself, alone. It is a very large market. Minneapolis, St. Paul and Duluth can take very large quantities of nails. We would habitually sell them from ten thousand to twenty thousand kegs of nails at one order.

Q. If you had one plant located in a given town in Pennsylvania—if you had three plants there, you would still reach the same general territory in the neighborhood of Pennsylvania, would you not, with your three plants?

A. Yes, sir.

Q. But you could go farther with three plants than with one, is that your proposition?

A. You could go farther, but it would be often at a freight rate cost against you.

Q. What I am trying to get at is, what advantage was

there in taking in additional plants in Pennsylvania when they had several plants already in western Pennsylvania?

A. It would help them to steady the price.

Q. What products did your New Castle Nail Company manufacture?

A. Wire and nails.

Q. That is plain fence wire and other forms of wire?

A. Yes, sir.

Q. That is the class of wire business with which you are chiefly familiar, is it?

A. Yes.

Q. You do not know much about barbed wire, do you?

A. No; very little.

Q. Did you sometimes sell your plain fence wire to farmers?

A. Yes, sir.

Q. In various parts of the country?

A. Pardon. We sold to jobbers; we did not sell to individual farmers. Is that what you mean? We sold to jobbers?

Q. I mean did your product, plain wire, ultimately go to farmers?

A. Yes; through the jobbers.

Q. For what do the farmers use the plain fence wire?

A. Well, if he had fine horses, for talking's sake, he would not want a barbed wire fence because they would injure themselves by getting against it, and fine stock the same, and they often used plain wire; and it was cheaper.

Q. Which was the cheaper, the plain wire or the barbed wire?

A. Why, the plain wire, of course.

Q. If you cut the plain wire price, would you perhaps be able to sell to a man who would otherwise take barbed wire if they were the same price?

A. If a man wants barbed wire, he gets barbed wire. I would not call that business cutting the price, you know, to bribe him into giving you an order for plain wire.

Q. I understand, but supposing you wanted business very much, and he was using barbed wire on account of the price being about the same as your plain wire; assume for the moment

you were selling both plain wire and barbed wire at the same price; now suppose you cut the price on your plain wire very much, does that increase the chance of his buying the plain wire instead of the barbed wire?

MR. LINDABURY: I object to that question, first, as calling for speculation on the part of the witness; and, secondly because this witness has particularly said that he never sold any wire to the farmers; that the wire was sold to jobbers only.

By MR. COLTON:

Q. Will you answer the question.

A. Why, I think Mr. Lindabury has answered it for me.

Q. His is merely an objection. Read the question.

(The question was read by the stenographer as above recorded.)

A. Well, the supposition there is that they were about the same price, and the facts are—

By MR. COLTON:

Q. I know, but—

MR. LINDABURY: If you must ask such questions, do let him answer them.

MR. COLTON: No; this is purely an assumption, just as yours was an assumption a moment ago, and I wish an answer to the question I have asked, and it is a hypothetical question.

MR. LINDABURY: You cannot tell whether he will ultimately answer it or not, until you give him an ultimate chance.

MR. COLTON: I noticed you cut him off when you did not like it.

Read the question.

(The question was read by the stenographer as above recorded.)

By MR. COLTON:

Q. Will you answer, Mr. Stevenson?

A. I would not sell him plain wire at the same price as barbed wire, because barbed wire is worth from eight to ten

dollars more a ton to make, so I would be the man that was hurt, wouldn't I?

Q. Yes.

A. I don't know how much the farmer would be benefited. I could sell you a cotton shirt to-day, if I was in that business, but I couldn't sell you a woollen one; you don't want the woollen one; and he didn't want plain wire when he wanted barbed wire. Does that explain it?

(Whereupon, at 12:30 o'clock p. m., a recess was taken until 2 o'clock p. m.)

AFTER RECESS.

At the expiration of the recess the hearing was resumed.

JOHN STEVENSON, JR.,

the witness under examination when the recess was taken, resumed the stand.

REDIRECT EXAMINATION (Continued).

By Mr. Colton:

Q. Mr. Stevenson, what advantage was it that the Sharon Company was to obtain from the merger with the Union Steel Company?

A. Nominally a customer for our pig iron and our billets. Really a customer for our ore, in the long run.

Q. Was there any other advantage?

A. That was a very great advantage. I do not remember any other impressing me.

Q. Was there anything in the way of a financial advantage?

A. That was not discussed at the time we were merging.

Q. Was it discussed later?

A. Later the deed was done, you know. It was discussed at the time that the two companies sold out to the U. S. Steel Company.

Q. This morning you spoke of George W. Darr as having been engaged in certain negotiations in connection with getting money for the Sharon plant, or disposing of the Sharon plant?

A. Yes.

MR. LINDABURY: After it was merged.

By MR. COLTON:

Q. After it was merged. Both the Sharon plant and the Union plant?

A. Well, he helped to get money for the Sharon plant. I know that.

Q. To whom did he go to get the money for the Sharon plant? If you know, of your own knowledge?

A. Of my own knowledge I don't know from whom he tried to get money.

Q. To whom did he go to carry on the negotiations in respect to the sale of the Sharon Steel Company and the Union Steel Company?

A. After they became merged with the Union Steel Company—

Q. Designating it as the merged company. If you know, I do not wish to know unless you know.

A. I do not know.

Q. You testified this morning, if I understood you aright, that he carried on negotiations with some representatives of the Steel Corporation. Do you know anything about that of your own knowledge?

A. Not of my own knowledge, sir.

Q. Then what you said this morning was hearsay?

MR. LINDABURY: I object to that.

THE WITNESS: When you say not of my own knowledge—I knew it and I didn't know it. I didn't go to the Steel Company myself.

By MR. COLTON:

Q. Tell us all about it, and we will see whether or not you knew it.

A. I would tell you in a moment if I did. You know you may ask a lot of people for money and not get it. So when you asked me to whom we applied, I don't know; but what we tried to do was to sell our ores.

Q. Were you present at any negotiations that took place between George W. Darr and any representative of the United States Steel Corporation?

A. No; I was not.

Q. Then, if you knew anything about it, it was by reports from Mr. Darr in regard to it?

A. I had to know it that way, yes.

Q. Did he report to you whether he first went to the Steel Corporation for money, or whether they had first come to him for the property?

A. I do not believe that he went to them for money. I do not know; but I would not think so.

MR. LINDABURY: The witness did not say he did.

MR. COLTON: I understand.

MR. LINDABURY: I thought you misspoke yourself. He said he went to them to sell it.

By MR. COLTON:

Q. Did he report to you that he went to them to sell out, or that they came to him to purchase? Which was the report?

A. Well, I could not just say on that point, as to which did the talking, you know.

Q. You do not know which party started the deal, then?

A. No, sir; at this moment I could not say. I would think that it would be more likely to be Mr. Darr, because he was a broker. That is his business, you know.

Q. But, aside from the fact that he was a broker, you do not know which party started the deal?

A. From my own knowledge, no, I do not.

Q. Were there any other parties from your company concerned in the deal besides Mr. George W. Darr, who is now dead?

A. All of the nine directors knew of it, more or less; because we met frequently, and it was a matter of discussion or conversation between us.

Q. Was there going on at the same time any negotiation on the part of the merged companies to raise money, if they could?

A. When the companies were merged, I was not in touch, then, with the financial arrangements, so much as I was prior to that time; so that I do not know.

Q. Did you sell the Sharon Steel Company, or merge the Sharon Steel Company with the Union Steel Company on account of financial difficulties?

A. Yes and no.

Q. Explain.

A. I was hard up for money. I had put in more than I owned, and had borrowed some to help the enterprise through; and we were very extended, as that gentleman was kind enough to say; and Mr. Darr had to help to do the financing.

Q. You had put in a great deal of money in contemplated steel works? Is that it?

A. It depends on what you call a great deal. I began with $843,500.

Q. Yes.

A. And I went on until I had double that amount in.

Q. And that was all put in different forms of steel works, was it?

A. Yes, sir; plants.

Q. And in addition to that you had put out notes?

A. I would not do that. The company had some out.

Q. The company had notes out?

A. Yes; but we sold bonds.

Q. It had sold bonds?

A. Yes.

Q. Did they get money for their bonds?

A. Sure. Yes.

Q. Well, that did not give you any financial difficulty, if you got money for your bonds, did it?

A. You have not sold many, or you might know.

Q. You had not sold all you wanted to, then?

A. We sold all we needed, you know, at the time.

Q. You were not in danger of going into the hands of a receiver, were you?

A. I had not got so bad as that, you know. I think half

the steel works I know have been in fear of bankruptcy some time or other in their lifetime, all the big companies I have mentioned, at some time or another, the Cambria, the Pennsylvania Steel Company and those big concerns.

Q. Did you learn, prior to the sale of the New Castle Sheet & Tin Plate Company and of the Shenango Valley Steel Company's sheet and tin plate works, both of Newcastle, to Judge Moore, D. G. Reid, and others, what companies were to be taken over by Judge Moore, D. G. Reid and the other promoters of the American Tin Plate Company?

A. I will say yes and no, again, because they came to me, as far as I know, the second on the list; themselves first. They had a plant at Richmond, Indiana, and then they came to us at New Castle, so that the others tagged on afterwards; and the hope was that the others would come in, but I did not know that they would.

Q. Did they express that hope to you that the others would come in?

A. Of my own recollection, I do not know, but I have no doubt I rather hoped they would come in, myself.

Q. Did they mention the names of any other companies?

A. We all knew the companies; the opposition—Oliver was one, Dick Quay was interested in a plant, and some others, a number of others.

Q. Were those among the companies subsequently taken in?

A. Yes, sir,—when you say "taken in", is that the right expression?

Q. Acquired.

A. Yes. You see, when you say "taken in", I sometimes wondered whether we took them in, you know; you see, it just depends on how you look at it.

Q. Was the Sharon Steel Company, at the time immediately prior to its acquisition by the United States Steel Corporation, equipped to produce wire products from the ore to the finished wire products?

A. Yes, sir.

Q. Do you understand the expression "continuous wire rod mills"?

A. Yes; I built two.

Q. Did the Sharon Steel Company have continuous wire rod mills at Sharon and elsewhere?

A. Yes, sir, two; and they still have them.

Q. Were they A No. 1 wire mills?

A. First class; the very best.

Q. Name the largest competitors of the Sharon Company in wire products prior to its acquisition by the United States Steel Corporation.

A. Pardon me. The United States Steel Corporation did not acquire the New Castle Wire Nail Company; it was the American Wire Company.

Q. I am now speaking not of the New Castle Wire & Nail Company, but of the Sharon Steel Company's wire works which went into the merger of the Union Company and the Sharon Company.

A. Yes, sir. Well, the Union Company was in opposition, you know, until merged.

Q. I want your largest competitors outside of the American Steel & Wire Company of New Jersey.

MR. LINDABURY: The Sharon's largest competitors?

MR. COLTON: The Sharon's largest competitors.

A. There was a concern in Alabama that was growing pretty rapidly, and Mr. Shuler was the manager, but what the title of the company was, I could not say. It was in Birmingham, Alabama. They were looming up prospectively large.

BY MR. COLTON:

Q. What has become of that company?

A. I do not know. There were several plants scattered through the states, say, the Griswold——

Q. I just want the principal ones.

A. The Griswold Company. What was that company called? It was the Dillon & Griswold Company at Sterling, Illinois. Now, I have got it.

Q. Do you know that that company was not in the American Steel & Wire Company at that time?

A. I do not think it was. If it was, I have no recollection of it.

Q. Can you name any other?

A. There was a concern at Joliet that I had heard of.

Q. What was the name of that?

A. I do not remember at this moment, because there were two. I know John Gates and Lambert were in the one, but who was in the other I do not know.

Q. Were the wire mills of the Union Steel Company and the Sharon Company, taken together, as large as or larger than any one of the companies outside of the American Steel & Wire Company at that time?

MR. LINDABURY: Did he not answer that question this morning?

MR. COLTON: No, that question has not been asked before.

A. Well, I think we were as large as any of them.

By MR. COLTON:

Q. You cannot name any company that was larger?

A. I do not recollect any at this moment. Was the Washburn & Moen Company in by that time, do you know?

Q. Oh, yes, it is in the record that the Washburn & Moen Company had gone in.

A. They were pretty large. They had a plant at Waukegan as well as one at Worcester.

By MR. LINDABURY:

Q. Did you name the Roeblings?

A. I do not know whether they were in or not.

By MR. COLTON:

Q. What did the Roeblings Company manufacture or produce?

A. Wire.

Q. What sort of wire?

A. For cables, for the like of the Brooklyn Bridge mostly.

Q. That was a different product from that which you manufactured for the most part?

A. Yes, sir.

MR. LINDABURY: You are not asking about wire generally, but their type of wire?

MR. COLTON: Of their general style.

MR. LINDABURY: Of course we all know that the Roeblings were in the wire business—

MR. COLTON: I am asking for his type of wire.

By MR. COLTON:

Q. Had the Sharon Steel Company in the course of building a number of blast furnaces at the time immediately preceding its acquisition by the United States Steel Corporation?

A. Yes, sir; two blast furnaces.

Q. What was the estimated capacity of those blast furnaces that were in the course of building?

A. I would call it, safely, 300 tons a day. I think they might have done a little better than that. Call it 100,000 tons a year each, if you like.

Q. Do you know what would have been the sum total capacity of the Sharon Company when those furnaces were completed.

MR. LINDABURY: Did he answer that this morning?

MR. COLTON: No. You put the question in such a form that I do not think he gave an answer.

The WITNESS: I gave the wrong answer to his question, I think.

MR. LINDABURY: I thought you corrected it?

The WITNESS: Yes, sir, I corrected it, and I am glad the gentleman has put the question now. I got my decimal point wrong this morning. About 175,000 tons a year.

By MR. COLTON:

Q. Is that the sum total?

A. That we would put on the market, you mean?

Q. I mean taking the capacity of what you already had, and what you had projected, how much would it have come to, all told?

A. About 175,000 to 200,000 tons a year.

Q. If I understood you correctly, you just said that the

estimated capacity of your projected plant came to 300 tons a day.

A. Yes. I think there is a slight confusion. When you asked about the estimated capacity, that was the making of pig iron. We did not sell pig iron but used it ourselves.

Q. Yes, that is my mistake. Now, I want it as to pig iron.

A. I gave it as to pig iron when I said about 300 tons a day from each of the furnaces.

Q. Now will you give your sum total capacity in gross tons of pig iron for a year, including the furnaces that you had already built and those that were in the course of building?

A. I would call it off hand about 300,000 to 350,000 tons of pig iron, but not that much steel. I told you, truthfully, I believe, that we could get out about 175,000 tons a year of finished product.

MR. LINDABURY: I think he said he did not sell pig iron.

The WITNESS: That is correct; we did not sell pig iron, or rarely so. We often bought pig iron.

MR. LINDABURY: That is what I understood.

By MR. COLTON:

Q. Was there any tin plate company as large as or larger than the works of the Sharon Tin Plate Company?

A. Yes, sir.

Q. Who were they?

A. The one at New Castle; two of them at New Castle, I should say.

Q. To what companies did they belong?

A. (Continuing). One at Richmond, Indiana—

Q. To what companies did they belong to?

MR. LINDABURY: Will you not let him finish?

MR. COLTON: Yes, certainly. Go ahead, if you had not finished.

The WITNESS: (Continuing). And another large one in Pittsburg. Two in Pittsburg, but one was a good deal larger than the other—the Oliver concern. That was four.

By Mr. Colton:

Q. Was that all?

A. That is all I recall at this moment.

Q. And you are speaking of the time the Sharon Steel Company was acquired by the United States Steel Corporation.

A. Yes, sir.

Q. Were all those companies outside the American Tin Plate Company or the American Sheet & Tin Plate Company?

A. I would need to think. Oliver, I think, was outside, if I remember rightly. I am almost sure he was. I think they called themselves the Monongahela Tin Plate Company—the Olivers.

Q. Do you know what they manufactured?

A. Tin plate.

Q. Anything else.

A. They had a special, separate tin plate company, and I do not know of their making anything else. They may have made a few sheets, but if they did it was very few.

Q. Assuming for the moment that that company was outside the American Tin Plate Company, and outside the American Sheet & Tin Plate Company, do you know of any other company, outside the American Tin Plate Company or American Sheet & Tin Plate Company, as large as or larger than your works?

A. I do not believe there were any other companies larger than us, but I think there were several smaller. I would need to take a little time to think of who they were.

Q. If they were smaller, no matter.

A. They were smaller.

Q. At the time you entered into a contract with Judge Moore, Mr. Reid, Mr. Graham, and others, in respect to the disposition of the products of the Sharon Steel Company's tin plate works, was there any company at that time as large as or larger than the Sharon Steel Company's tin plate works?

A. Perhaps there were two or three as large, but by the time I got going there was not any that was any larger.

Q. Will you name those that you think were as large at that time?

A. I would need to look up the record before I could tell you how many mills they had. A mill is a unit. We had 20 mills.

Q. Can you recall any you think were as large?

A. Offhand I think Oliver had about 16 or 18 mills.

Q. How many mills did you have?

A. Twenty.

Q. Wherein did your strength consist, as a manufacturer or producer of wire products and tin plate products?

A. My strength?

Q. Yes.

A. Shall I say my brains?

Q. Answer in full.

A. I do not know what I would say. I was sometimes financially a little weak and sometimes strong in brains, as compared to my opponents. Is that fair, or too conceited?

Q. How about possessing—

A. (Interposing). Oh, we made wire and nails from the ore up. We began with the raw material. We were the first to do that. We were the first to put the ore in a blast furnace on Saturday night and have it as nails on Tuesday evening. From ore to pig iron, to steel, and then sold as wire and nails.

MR. LINDABURY: Well, that was brain product, I suppose?

THE WITNESS: Well, a little brains and some money; a mixture.

By MR. COLTON:

Q. You needed ore for that as well as brains, did you not?

A. Yes, sir; we needed ore.

Q. And blast furnaces?

A. Yes, sir.

Q. And you had both?

A. Yes, sir.

Q. Both ore and brains and blast furnaces?

A. Well, I don't say the brains, but we had the ore and the plants.

Q. You had a great deal of experience in wire works, and in tin works both, did you not?

A. I had some experience.

Q. And in steel in general?

A. Yes, sir; I had more in steel than in the others.

MR. LINDABURY: I did not catch the last.

THE WITNESS: More experience in the steel. The tin plate was a recent development at that time.

MR. COLTON: That is all.

RECROSS EXAMINATION.

By MR. LINDABURY:

Q. What was the size of the McKeesport Tin Plate Plant in 1902, or when you sold out to the Steel Corporation, which is the date about which Mr. Colton is asking you?

A. Mr. Attorney, we called it the Demler plant. You mean the Demler plant. It was five or six miles from McKeesport.

Q. I do not know what I mean. McKeesport was the one told to me.

A. Well, that was a good plant.

Q. A very large one, wasn't it?

A. Yes, sir.

Q. Wasn't it larger than yours?

A. When I sold out in Sharon or in New Castle?

Q. At the time you sold out the merged company to the Steel Corporation?

A. Yes, sir. Well, I think that was about as large as us; I think it was. I think they had eighteen mills anyhow.

Q. That was not owned by the Steel Corporation, was it?

A. I don't recollect that they owned it. If they did I have no recollection that they owned it.

Q. Did you go into any of these combinations, as I will call them, or amalgamations, for the purpose of obtaining any monopoly in the business?

A. No; I went in to make a little money if I could. In that hope. Monopoly never entered my head.

Q. And did it appeal to you that money could be made by a large company better than by a small one?

A. Yes, sir; there is no question about that.

Q. That was your thought about it, was it?

A. That was a very prominent thought about it.

Q. Did you have any idea of crowding anybody else out of business?

A. Oh, no. I had troubles enough of my own usually without bothering them.

Q. Did the obtaining of business otherwise than by legitimate means enter into it?

A. Never wanted to do that.

Q. Or by making the best material at the lowest cost?

A. I made a good article and got a fair price for it. That is what we did.

Q. You were speaking this morning of the plants making wire products and of their being located around the country, and you were asked by Mr. Colton in effect whether there was any occasion for taking in any more than those which were originally taken in, for the purpose of supplying different parts of the country. Do you happen to know whether or not Washburn & Moen and some of these plants that were acquired later, either by the Steel & Wire Company or the Steel Corporation had specialties or made a different class of wire products?

A. Yes, sir; most of them had specialties. Many of them had. I will say many of them; Washburn & Moen conspicuously so.

Q. And what was the character of their chief productions?

A. I think their chief production was barbed wire originally, but they developed into making wire for wood screws, such as used in fastening hardware.

Q. It is the wood screw that we know in commerce, is it?

A. Yes; and piano wire and wire used for binding books; we called it tinned wire; and for bed springs, and all kinds of springs. I didn't make that.

Q. Is it true of some of the other important concerns that were taken in later that they made specialties?

A. Yes, sir.

Q. And not the common base product?

A. No; they made specialties; some of them did.

Q. These concerns that were taken in at the beginning for

the most part made what you might call a base product in the wire trade.

A. We called it plain wire.

Q. Plain wire?

A. That is the trade name for it.

Q. Most of the companies taken in first did that sort of thing, did they not—made plain wire?

A. If you mean most in number; I doubt it.

Q. No; in product.

A. But in quantity and tonnage they did, yes, sir.

Q. And these that were later taken in, the important ones, such as Washburn & Moen and some of the others——

A. Morgan Spring Company made things of that kind; they were making specialties; the Cleveland Rolling mill was a large one that made specialties.

Q. And the Newburg plant?

A. Yes; they made specialties.

Q. The Laidlaw Bale Tie Company?

A. LaBelle?

Q. No; the Laidlaw Bale Tie Company.

A. I never heard of them.

Q. There was a LaBelle Company.

A. I know LaBelle.

Q. Did they make specialties.

A. No, sir; I don't think they did.

Q. I had the name wrong in my mind, as you did.

A. Yes.

Q. Mr. Stevenson, with regard to wire products generally or as a whole, I suppose the Roebling concern is the largest in that particular line, is it not?

MR. COLTON: I object to his answering unless he knows. He has already stated that he is familiar with plain wire and nails.

MR. LINDABURY: I think he has answered far and away beyond that, and I think he knows.

By MR. LINDABURY:

Q. You know, do you not, the comparative output of the different wire making concerns?

A. I used to know familiarly, but what I know about Roebling is that we sold them billets; thousands of tons of billets.

Q. Which they made into wire?

A. Yes, sir; couldn't be a small concern and buy 10,000 tons or billets from you, you know.

Q. At that time, when you were actively in that line of business, was not the Roebling concern the largest in that line of wire making, in the line of wire products generally? If you do not know I will pass it.

A. I don't know.

Q. Very well, I will pass it, then. What did the Griswold Wire Company make?

A. They rolled rods a little and made a little wire at Sterling, Illinois. I think they ran it with a water wheel or something of that kind.

Q. I am told you have the wrong one.

A. Sterling, wasn't it?

Q. The Griswold Wire Company, I am told, was at Pittsburg. Do you know a concern there of that name?

A. No, sir. I know Griswold personally, and saw him lately. But there was a Griswold at Sterling, Illinois.

Q. Perhaps so, but do you know the works at Pittsburg, the Griswold Wire Company?

A. No, sir; never heard of it. Griswold's father started the Bessemer steel making in this country.

Q. Did Washburn & Moen make flat wire?

A. Yes, sir.

Q. And wire rope?

A. I don't know about the wire rope. Roebling did that. They made flat wire and they made square wire.

Q. Those were specialties?

A. Yes, sir.

Q. And their productions in those were large, were they not?

A. They were; large of their kind, you know, but there is not a great deal in tons of piano wire used in the whole blessed country.

Q. That is piano wire, is it?

A. Well, and wire for binding books and furniture and things of that kind.

Q. I do not suppose piano wire or book wire is sold by the ton, is it?

A. No; that is what I mean, that they were large in their specialty. That is what I meant. But in tonnage they were not large.

Q. Those specialties in the aggregate, taking them all together, however, were very important, were they not?

A. They were important.

Q. Just a question or two more. First, in regard to your Sharon property. You spoke of your difficulties, and I do not want to go further into the matter except to ask whether your Sharon Steel property was mortgaged?

A. Well, we had $3,000,000 of bonds out on it, if I remember properly.

Q. Was there a mortgage on the property to secure the bonds?

A. Of course, to secure the bonds.

Q. They issue bonds in New York sometimes nowadays without mortgages?

A. Oh, you mean collateral bonds.

Q. There was a mortgage on the property?

A. Yes, sir.

Q. Was it on the ore properties and coal properties as well as on the works?

A. I do not think so. It was on the steel works. It was not on the ore property.

Q. The Sharon Company did not hold the title to the ore property, but owned the stock of the corporation that held it; is not that so?

A. Oh, no; we owned the ore property outright. You mean the Sharon Steel Company?

Q. Yes.

A. Yes.

Q. Did you not own the stock of the Sharon Ore Company which held the title?

A. Well, but we were the Sharon Ore Company.

Q. Exactly, but did you not mortgage that stock of the Sharon Ore Company? Was it not pledged under the mortgage?

A. I do not think so.

Q. Did not Darr: Did you not say that he was president of the merged company?

A. The Union Steel Company?

Q. Yes.

A. No, sir.

Q. I understood you this morning to speak of him as the president of the merged company.

A. He was the president of the Sharon Steel Company.

Q. But not of the new merged company?

A. I do not think so.

Q. And it was he who negotiated the sale to the Steel Corporation, as I understood you this morning?

MR. COLTON: I object, because I believe he has testified that he has no knowledge of that.

MR. LINDABURY: I will see about that.

By MR. LINDABURY:

Q. You know he negotiated the sale of the property to the Steel Corporation on behalf of your company, do you not?

A. Mr. Darr had a good deal to do with it; I know that.

Q. Did he not begin it?

MR. COLTON: I object on the ground that the witness has stated that he did not know whether the Steel Corporation began it or whether Mr. Darr began it.

MR. LINDABURY: I do not think it is either proper or necessary for you to be making remarks of that kind when the witness is under cross-examination. Such things sometimes inform witnesses very improperly. I do not think it is so in this case, but it is not a good practice.

A. Well, I am needing some information myself.

By MR. LINDABURY:

Q. Did you not first hear of the matter from Mr. Darr that he had taken it up with the Steel Corporation?

A. I really do not think I did, to tell the truth.

Q. From whom did you first hear of it?

A. From William Donner.

Q. Was he the president of the Union Steel Company?

A. Yes, sir; of the one we had merged into——

Q. I mean the merged concern.

A. I do not know that he was the president of the merged concern, but he was the president of the Union Steel Company prior to the merger.

Q. Who was the president after the merger, if there was any change?

A. I do not think we ever got to that length.

Q. Did not Donner remain as president?

A. Well, we will call it that if you like.

Q. You first heard of it from Donner?

A. He came down and stayed at my house all night and talked the thing over about possibilities, you know, but that was just—it was not negotiations, you know.

Q. I understand. It was information.

A. Yes.

Q. He talked with you about it?

A. Yes, sir.

Q. Did you understand from him that the Steel Corporation had then been approached?

A. He had not approached them, as far as I know.

Q. You did not understand that he had as yet?

A. No, sir.

Q. He was proposing to you that it be approached on the subject, was he not?

A. No.

Q. What was his proposition?

A. Oh, we had a very large ore property, and he had a contract with the Carnegie Steel Company for a very large tonnage of billets—I have forgotten how much, but it was an enormous quantity—so much a year. I think it was a three year contract. He said: "I have got to get ready to make my own steel", and we had the ore, and it was discussed how we should manage it. Is that the way you want it?

Q. No, that is not what I am interested in. I only wanted any conversation that you had with him on the subject of selling out to the Steel Corporation. That is all I wanted, nothing else.

A. That came on afterwards in conversation only, but not in negotiation.

Q. I know. I understand you did not meet the Steel people yourself?

A. I did not meet them at all.

Q. But you did talk with those who did meet them, did you not?

A. Yes.

Q. Was Donner one of them?

A. I really do not know.

Q. Or was it Darr?

A. George Darr reported the facts to his directorate, of which I was one.

Q. Did he report that he had been in negotiations?

A. Yes, sir.

Q. Did he report how he came to take up those negotiations?

A. How he came? It would be safest to say I do not know.

Q. Did he not report that he had been to see somebody connected with the Steel Corporation and talked with them on the subject of taking over your properties, and did you not tell us that this morning?

A. I would not say so. If I said so, I did not know of my own positive knowledge that he went to them.

Q. I am only asking what he reported to you. If he did not report that he had done so.

A. Yes, he reported that the negotiations could be begun. I know that.

Q. Did he not report that he had begun them; that he had been to the Steel people about it?

A. Yes, I recollect now that he did talk that way; yes, sir. I recollect now. I will tell you why I know.

Q. I do not care why you know. You now recollect it, do you not?

A. Yes, sir; I know that he had negotiations under way. I knew that, of my own knowledge.

Q. That is all I am interested in knowing just now. Had you talked with him about it before that time; had you dis-

cussed with him the desirability of selling out to the Steel Corporation before that time?

A. I had not.

Q. Had others, to your knowledge? Had you information from your associates that they had?

MR. DICKINSON: I object to that, Mr. Lindabury.

MR. LINDABURY: That is, talk between representatives.

MR. DICKINSON: I object, unless it was a part of the negotiations; I think that would be hearsay purely.

By MR. LINDABURY:

Q. I do not care anything about what you said; all I want is the mere fact of whether you and your associates had discussions on the matter of selling to the Steel Company before this report by Mr. Darr that he had taken it up with them. I do not want what was said, but had you discussed the subject; yes or no is all I care about. I merely want the fact.

A. Not that I know of.

Q. You do not recall?

A. I do not recall. That is the better way.

Q. I understand that you yourself, were impressed with the desirability of selling, because of your financial condition?

A. It is very impressive sometimes, financial condition.

Q. And it impressed you, did it not?

A. Yes, sir; I believe it did.

By MR. COLTON:

Q. Did Darr report to you whether he had taken up the negotiations with the United States Steel Company or whether the United States Steel Company had taken up the negotiations with him?

A. I cannot give a positive answer on that point, as to which took the thing up, the one or the other.

Q. You speak of specialties in the wire business. Were you the maker of specialties?

A. No, sir. We kept out of that.

Q. Do you call barbed wire a specialty?

A. No, not in the usual sense of the word.

Q. Were there not a great many concerns that went into the American Steel & Wire Company of New Jersey that made barbed wire?

A. Yes.

Q. So in order to get more specialties, they would not have taken in Washburn & Moen because they were manufacturers of barbed wire, would they?

A. You cannot take in the left hand and leave the right hand out; you have to take the whole thing.

Q. But the barbed wire did not enter into it as one of the specialties to be acquired?

A. They were the original owners of the barbing patent at that time.

Q. And they were manufacturers of barbed wire at that time?

A. Yes, sir.

MR. COLTON: That is all, Mr. Stevenson.

PERCIVAL ROBERTS, JR.,

heretofore called and sworn as a witness in behalf of the United States, was recalled for further examination.

DIRECT EXAMINATION

By MR. DICKINSON:

Q. When we adjourned you were asked to look for and produce three papers. I will take them up in order. The first was the written agreement under which the stock of the Pencoyd or the A. & P. Roberts Company, was sold to Mr. Ladd. Have you that agreement?

A. I have looked for that agreement, and I now produce it. (Witness producing papers.) This is one of the two original agreements.

Q. What was your last statement?

A. This was one of the exchange agreements signed by I. Gifford Ladd.

MR. LINDABURY: There seem to be several papers here. The agreement was all that was asked for.

THE WITNESS: That is the consummation of the agreement.

By MR. DICKINSON:

Q. This is an agreement made the 10th day of May, 1900 by and between P. W. Roberts, and Percival Roberts, Jr., of Philadelphia, Pennsylvania, parties of the first part, and I. Gifford Ladd, of the City of Providence, State of Rhode Island, party of the second part, and I observe it is signed "I. Gifford Ladd." I understand from your statement that these papers were made in duplicate and exchanged?

A. Yes, sir.

Q. And an identical copy of this paper retained by Mr. Ladd?

A. Yes, sir.

Q. And your name was signed to it?

A. Yes.

Q. And was not signed to this. I understand the two are the same.

A. There was an interchange of two duplicate papers, yes. This is the original, (indicating).

Q. Are you willing to leave this, or do you want it copied into the record?

THE WITNESS: That paper (indicating one of the papers referred to) is the copy of the financial statement of the Pencoyd Iron Works on which this agreement is based. It is referred to in the agreement. It was made by Stephen Little.

MR. LINDABURY: I suppose it had better go in.

MR. DICKINSON: If it is referred to, certainly.

MR. COLTON: Is it made a part of it?

MR. LINDABURY: I do not know whether it is made a part of it or not.

THE WITNESS: It is the statement on which the transaction is based.

By MR. DICKINSON:

Q. Do you remember in what clause it is referred to?

A. I think you will find it referring to the financial statement of January 1st, 1900; I think on the last page of the agreement it also refers to a supplementary period, bringing it down to May 15, 1900.

Q. Clause 6. An investigation of the books of account of the said company was made as of the 1st of January, 1900, by Stephen W. Little. This is the agreement (indicating)?

A. That is the consummation.

MR. DICKINSON: We will put it in, then, as part of it.

MR. LINDABURY: I have not seen it.

MR. DICKINSON: I have not seen it either, but we will put it in.

THE WITNESS: It shows that there was value received for the consideration.

MR. DICKINSON: It is agreed by counsel that the said paper need not now be copied, and either party shall have the right to have it produced as evidence.

MR. LINDABURY: No, I do not want to put it that way.

MR. DICKINSON: How do you want it?

MR. LINDABURY: It is agreed that it shall be copied in the printed record unless counsel otherwise agree before-hand.

MR. DICKINSON: But need not be copied now.

MR. LINDABURY: Yes.

MR. DICKINSON: All right.

(The papers so identified were offered in evidence and marked "Government Exhibits 89 and 91, May 24, 1912.")

By MR. DICKINSON:

Q. The transaction was consummated on the basis of this agreement, was it?

A. It was, sir.

Q. That was a sale of the stock of the A. & P. Roberts Company to Mr. Ladd?

A. Stock and bonds.

Q. And the date of this transaction is the 10th day of May, 1900, I see?

A. Yes.

Q. Was there any variation from this?

A. It was carried out in accordance with the terms of that agreement.

Q. You spoke the other day of a conversation that you had with Mr. Bacon. Was that conversation with Mr. Bacon before or after the date of this agreement?

A. A year afterwards, nearly. That was, I think, about April, or possibly March, 1901.

Q. And that was at the time of the formation of the Steel Corporation and the American Bridge Company going into that?

A. Yes, sir.

Q. Were you or were you not one of the parties associated with Mr. Ladd in the plan of getting up and organizing the American Bridge Company?

A. No, sir. I had no knowledge whatever of any transactions in reference to the organization of the American Bridge Company, excepting several interviews with Mr. Ladd in regard to the sale of the securities of the A. & P. Roberts Company.

Q. You had nothing to do with the selection of companies proposed to be included in or excluded from the combination which constituted the American Bridge Company?

A. Nothing whatever. I had nothing whatever to do with it.

Q. And of passing on the character or quality of their works?

A. Nothing whatever. The first connection I had with the American Bridge Company was of May 21, 1900, when I was elected president of the company.

Q. And you were not in the councils or confidence of Mr. Ladd or any of these other people——

A. Not in the slightest——

Q. Wait a minute please.

A. I beg your pardon, sir.

Q. (Continuing). In regard to the purposes or the controlling motives in organizing this company, or the selection of the properties that were to go into it?

A. No, sir, no.

Q. Did you at that time have any knowledge of the motives that controlled them, and were the purposes of their or-

ganization communicated to you by Mr. Ladd or anybody who was in the combination or active in getting it up?

A. Yes. I can recall a number of conversations which I had with Mr. Ladd. I think I had several with Mr. Conger, and probably some with Mr. Jarvis. They invited me to enter into their scheme and outlined briefly what it was. I told them that I could not consider it. First, however, what they invited me to do was to put our bridge department into their proposed company, meaning by the bridge department to segregate that department of our works from our steel works. I told them it was an impossibility, that it could not be done, that it was part and parcel, one entire unit, and I therefore considered that we were not on the same basis at all as the other plants which were proposing to go into the organization as proposed, that we were in an entirely different position, due to the fact that we were manufacturers of steel as well as builders of structural work.

Q. When were these conversations with Mr. Ladd and Mr. Conger; before or after you made this contract?

A. I should place them as probably between the years 1898 and 1900.

Q. That was before this contract was entered into?

A. Entirely so.

Q. Did they or did they not disclose to you the purpose that they had in regard to the formation of the American Bridge Company?

A. Oh, yes; it was generally talked over; and as I stated before it was entirely along the lines of economy of management.

Q. Did they indicate to you or specify what companies they expected to bring into the organization?

A. No, they did not.

Q. They did not mention any companies at all?

A. Further than their own. Mr. Jarvis was connected with the Berlin Bridge Company and Mr. Conger with the Groton Bridge Company.

Q. Then outside of their companies and outside of your works, did you have any information with regard to the character of the concerns that were going to be put into the combination?

A. No, I did not; not by name, no.

Q. Just state, Mr. Roberts, what information Mr. Ladd or Mr. Conger communicated to you before this purchase in regard to the organization they were proposing and the concerns that they were going to put into that organization?

A. Of course I can only give my general recollection of those conversations, which would be very general and not particular; but their arguments were based entirely along the lines of economy in shop management.

Q. You are not telling now what was said. I want to know what was said to you. I do not want your conclusions at all. I want you to state what Mr. Ladd said to you, the language he used, as far as you can remember it. I do not want any conclusions as to their arguments. If you know what the arguments were, state what they were.

MR. LINDABURY: Before you answer that, I think Judge Dickinson will correct that and allow the witness to state the substance of the conversation. You do not want him to be literal, of course.

MR. DICKINSON: Yes; but I do not want him to give me conclusions.

MR. LINDABURY: I understand that.

MR. DICKINSON: Not verbatim.

MR. LINDABURY: But the substance of what was said.

MR. DICKINSON: Yes.

By MR. DICKINON:

Q. State, as nearly as you can, the language used by each one of those men to you whenever this matter came up. And I would like you to state it in detail.

A. I cannot attempt at this late date to give the language used by any of those gentlemen in any conversations I had with them. I have a very clear recollection as to the tenor of the arguments which they presented.

Q. I object to your giving the tenor of any arguments. Can you not give the substance of any conversation you had with any one of them?

A. I can give the substance, but not the words.

Q. I do not mean your conclusion, but the substance in words.

A. Not my conclusions, but their statements.

Q. Well, give their statements and locate now the first time in order. When was it, as nearly as you can tell?

A. I cannot give any date further than that it was between the years 1898 and 1900.

Q. You cannot come any nearer than a range of two years?

A. I cannot.

Q. How many interviews did you have with Mr. Ladd on that subject?

A. I think possibly in those two years I may have seen Mr. Ladd a half a dozen times.

Q. State where you saw him, the various places?

A. I think Mr. Ladd called at my office several times.

Q. Where, in New York?

A. Philadelphia. I think I met him incidentally when I was stopping in New York occasionally at the Waldorf Hotel, where he then lived.

Q. So you met him at your office in Philadelphia and at the Waldorf Hotel in New York?

A. Those are the places which I now recall.

Q. State what Mr. Ladd told you in regard to the companies that were going into this organization.

A. Mr. Ladd's statement to me was, as far as I can recall, that he was proposing to organize a company composed of a number of the independent structural concerns for the purpose of effecting economies of administration, and for the purpose of increasing their capital, as very many of them then had not sufficient financial resources to carry out the contracts, which at that time were increasing very largely in size, and they were unable individually to handle them. He outlined various other economies, such as buying material in larger quantities, carrying increased stock, economy in regard to designing and erection. And also another considerable economy would be that the various shops could be organized along certain lines of work, so that they would be specialized, and in that way the cost of manufacture reduced.

Later on, one of the last suggestions that Mr. Ladd came to me with, after I had refused to consider it from the standpoint of a bridge shop only, was that these other shops had considered that they would be greatly advantaged by the

purchase of a steel works, which could furnish them with their raw material for fabrication. And he came back to me again, and said that he would like a proposal from me for our entire plant, including our steel works, which led up to that agreement.

Q. And you say that in none of these conversations he named any companies except the three companies which you have mentioned, that would probably be taken into that combination?

A. I would not confine myself to these three exactly; there may have been a few others mentioned, but no detailed list of any kind was ever shown or discussed with me.

Q. Mr. Roberts, can you mention the names of any companies, which, at the time you entered into this agreement, you knew were going to be taken over, or had been contracted for to be taken over, either directly or indirectly, into a combination to be known as the American Bridge Company?

A. I could not at this date state in detail.

Q. Did you know at the time you signed this contract what companies were going into that organization?

A. I certainly know some of them, but I am not sure that I knew all.

Q. I will ask you whether you knew that the Keystone Bridge Company, formerly of the Carnegie Company, was going in?

A. I think I did.

Q. Did you know that the Berlin Iron Bridge Company, of East Berlin, was going in?

A. I did.

Q. Did you know that the Post & McCord Company of Brooklyn was going in?

A. I did.

Q. Did you know that the Elmira Bridge Company, of Elmira, New York, was going in?

A. I cannot say.

Cal. Q. Did you know that the Union Bridge Company, of with[illegible]ens, Pennsylvania, was going in?

A. [illegible] I did.

[illegible] Q. Did you know that the Edge Moor Bridge Works of [illegible]gton, Delaware, was going in?

Ans.

A

A. I did.

Q. Did you know that the Lassig Bridge & Iron Works of Chicago, Illinois, was going in?

A. I don't know.

Q. The Shiffler Bridge Company, of Pittsburg, Pennsylvania?

A. I don't know.

Q. The Detroit Bridge & Iron Works, Detroit, Michigan?

A. I don't know.

Q. You mean you do not now recall that you have any recollection as of that time, and may have forgotten. How is that?

A. I neither now recall, nor do I think I knew at that time.

Q. As to any of those which I have mentioned where you have said——

A. Where I have said I don't know, yes.

Q. The Detroit Bridge & Iron Works, of Detroit, Michigan?

A. I don't know.

Q. The Rochester Bridge & Iron Works, of Rochester, New York?

A. I don't know.

Q. The Groton Bridge & Manufacturing Company, of Groton, New York?

A. Yes.

Q. The Youngstown Company, Youngstown, Ohio?

A. I don't know.

Q. The J. G. Wagner Company, Milwaukee, Wisconsin?

A. I do not know.

Q. The Wrought Iron Bridge Company, Canton, Ohio?

A. I don't know.

Q. The New Columbus Bridge Company, Columbus, Ohio?

A. I don't know.

Q. The Gillette-Herzog Manufacturing Company, Minneapolis, Minnesota?

A. I don't know.

Q. Lafayette Bridge Company, Lafayette, Indiana?

A. I don't know.

Q. Pittsburg Bridge Company, Pittsburg, Pennsylvania?

A. I don't know.

Q. Schultz Bridge & Iron Company, Pittsburg, Pennsylvania?

A. I don't know.

Q. Buffalo Bridge & Iron Works, Buffalo, New York?

A. I don't know.

Q. Koken Iron Works, St. Louis, Missouri?

A. I don't know.

Q. Hilton Bridge Construction Company, Albany, New York?

A. I don't know.

Q. Horseheads Bridge Company, Horseheads, New York?

A. I don't know.

Q. American Bridge Works, Chicago, Illinois?

A. I am not positive about that.

Q. New Jersey Steel & Iron Company, Trenton, New Jersey?

A. I don't know.

Q. Toledo Bridge Company, Toledo, Ohio?

A. I don't know.

Q. Nelson & Buchanan Company, Chambersburg, Pennsylvania?

A. I don't know.

Q. Did or did not Mr. Ladd at the time you made this agreement, tell you whether he had not secured options or made arrangements by which he was to take over certain bridge companies to be united under one corporation to be known as the American Bridge Company?

A. He did, and the ones he named to me, as I recall, and which I have said that I knew of, were the principal concerns. The others he classed as numerous highway bridge works, and some structural shops throughout Pittsburg and the West; but he simply enumerated them as a class. He possibly said about how many there would be, but I do not recall that he mentioned them by name.

Q. He did mention, as you recall, those which you have specified as having been mentioned, and he dealt with the others in a general way?

A. A more general way. They were the smaller shops.

Q. And he told you that he had made arrangements by which these concerns that you have mentioned by name, and

the others that you have mentioned by class, were to go into a company to be known as the American Bridge Company?

A. I so recall.

Q. You understood that such a company was going to be formed, and that the companies of the kind you have described were to be taken over by that company?

A. I so understood.

Q. The consderation set out here is to be paid, $2,000,000 in cash and $3,000,000 in preferred stock, and $1,500,000 in common stock on or before May 15, 1900; $1,000,000 in cash on June 1, 1900, and $1,000,000 in cash on June 15, 1900. State whether or not you took in cash those payments specified "in cash" or whether you took any of that in stock.

A. The payments I received were strictly in accordance with that agreement.

Q. That is to say, the cash payments——

A. (Interrupting). The cash payments were in cash.

Q. And the stock payments were in stock?

A. The stock payments were in stock.

Q. And you took no stock for the payments recited here to be in cash?

A. No, sir.

Q. In your former testimony you answered questions in regard to the relative output of the United States Steel Corporation in 1900, and stated that your answers were based upon statistics which had been furnished you showing the output of the United States Steel Corporation in bridge and structural material as of that year. Subsequently you volunteered the statement that you were in error in supposing that that paper spoke as of 1900, when it spoke as of 1903. Is that correct?

A. The figures I gave were partly accurate as of 1900 and also as of the year 1903. The percentage which I named, 38 per cent, is accurate as of the year 1903. The tonnage I gave is not exactly accurate for either of those two years. I would like for the year——

Q. You are not answering my question, I beg to remind you. Please answer.

A. I am trying to answer it.

Q. I do not think you are, and I think we had better have it read to you.

A. Very good.

MR. LINDABURY: It has been read.

MR. DICKINSON: I know, but the witness seems not to understand.

THE WITNESS: May I have the answer that I gave the other day read to me, and then probably I can get at it better.

MR. DICKINSON: Read the question, will you?

(The stenographer read the question as follows:)

"Q. In your former testimony you answered questions in regard to the relative output of the United States Steel Corporation in 1900, and stated that your answers were based upon statistics which had been furnished you, showing the output of the United States Steel Corporation in bridge and structural material as of that year. Subsequently you volunteered the statement that you were in error in supposing that that paper spoke as of 1900, when it spoke as of 1903. Is that correct?"

A. I do not recall that I referred to any definite paper, but to the result of a compilation of statistics and testimony which I gave before the Stanley Committee. I have gone over the statistics from which I testified and am now prepared to testify as to the relative capacities of the American Bridge Company's shops and those of its competitor's as of the year 1900 and also 1903.

By MR. DICKINSON:

Q. I will now ask you whether or not your answers the other day in regard to the relative output in 1900 were not based upon a paper which you said had been gotten up by someone else and furnished to you, and which paper you subsequently said spoke as of 1903 and not as of 1900?

A. I do not think that is correct. My statement was that the 38 per cent which I testified to as of 1900 was as of the year 1903. You asked me as to how my statistics for 1900 were arrived at, and I said from an examination of statistics furnished by the directory of the American Iron & Steel Asso-

ciation for the year 1900, and from that I had made certain calculations from my own knowledge as to the capacities for the year 1900.

Q. Mr. Roberts, you gave relative estimates of relative output for the year 1900. What recollection did you have of that, independently of any memorandum which had been furnished to you by others?

A. As to my recollection of the year 1900 I had no information furnished other than I had obtained from the publications of the American Iron & Steel Association. The memoranda which I had furnished by others, commenced, so far as percentages were concerned, with the year 1903; so far as capacities of the American Bridge Company were concerned, they commenced with the year 1901.

Q. You based your answers on that statement, did you?

A. I based my answers on that statement. So far as 1900 was concerned, I had prepared the data myself from the publications of the American Iron & Steel Association. As in the year 1903, and subsequent thereto, I had based my opinions upon data furnished by the American Bridge Company.

Q. Now, with regard to that paper to which you have referred as having been prepared by others, you had nothing to do with the preparation of that yourself?

A. Nothing whatever.

Q. You have not compared it, or done any original work in the preparation of it yourself?

A. None whatever.

Q. You do not know anything about whether it is correct or incorrect. You just accepted it from some one else?

A. I accepted it as a transcript of the records and the books of the American Bridge Company for those years, as enumerated.

Q. Did you make the transcript?

A. I did not.

Q. Then you do not know whether it is correct or not?

A. I do not, but presume it is.

Q. You say that your estimates made for the year were based upon what?

A. They were based upon the capacity.

Q. From what are you reading?

A. I was only looking for a page in the testimony before the Stanley Committee.

Q. I am asking you for your memory, now, and asking you as to what you testified the other day.

A. As to the tonnage for 1900 it was based upon estimates which I made from an examination of the capacities of the various bridge works of the country as shown in the supplement to the Iron & Steel Works Directory for the year 1903; also an examination of the directory for the year 1898, and from my general knowledge of the bridge business in 1900.

Q. You know nothing about whether those statements in the directory are correct or not?

A. Only from a general knowledge of the conditions existing at those plants. I would also say in that connection that of course all of those figures are theoretical and not the same as exact figures of tonnages of production. A shop capacity is elastic. You cannot give a definite figure for shop capacity, as it depends largely upon the nature of the work in which it is engaged.

MR. DICKINSON: Read the last question.

(The stenographer read the question as follows:)

"Q. You know nothing about whether those statements in the directory are correct or not?"

MR. DICKINSON: Read the answer.

(The stenographer read the answer referred to as above recorded).

By MR. DICKINSON:

Q. I will ask another question. Did you have any general knowledge as of those times which enables you to say whether or not the figures that you took from that directory were correct or not?

A. I think I had a reasonable knowledge as of the year 1900 of the general conditions of the structural business in the United States.

Q. Could you, independently of what is set out in that directory, remember the figures and statistics shown there?

A. No, sir; not at this date.

Q. Or at any time? I mean since you have given your testimony?

A. Since I have given my testimony; no.

Q. Well, when you were giving your testimony?

A. No.

Q. During this hearing, I mean.

A. Without reference to that supplement, I could only recall from memory the testimony which I gave before the Stanley Committee in regard to the matter of capacity as of the year 1900.

Q. Mr. Roberts, if you had made reference to that summary, is your knowledge sufficient on that subject, and is your memory sufficient, to state whether those figures given under each one of the concerns there set out are correct or not?

A. At this time?

Q. Yes, at this time?

A. No, no.

Q. You do not know whether that is correct or not, do you?

A. Yes.

Q. Of your own knowledge?

A. Of my own knowledge I should say that that publication was reasonably correct.

Q. I am not asking you for the reputation of the publication. I am asking this: Whether, when you swear here to percentages and have looked at that book, you base your answer upon what that book shows, or upon what you know.

A. Upon what the book shows.

Q. Was your estimate of the list of plants for the year 1900, which you gave the other day in your testimony, based upon a list prepared for the year 1900?

A. I do not recall that I gave any list of plants as of the year 1900.

Q. Do you recall whether you stated that your estimates for the year 1900 were based on a list of plants which had been prepared for the year 1900?

A. I do not now recall what my testimony was as to that.

Q. Have you any information now on the subject from which you can answer?

A. As of the year 1900?

Q. Yes.

A. No, I have not.

Q. Can you give, of your own knowledge, the output of the independent concerns that were in competition with your company in 1900?

A. I have not at any time made any reference to output. I have spoken only of capacity.

Q. Have you knowledge now which enables you to state the relative percentage of capacity as of the year 1900, of those concerns which went into the American Bridge Company and of the competitive concerns in structural and bridge material which did not go in?

A. From the supplement——

Q. No, from your own knowledge, now.

A. Without outside assistance from publications, I have not.

Q. Then your testimony that you have given on that subject is based on such publications?

A. As of the year 1900?

Q. As of the year 1900.

A. It is.

Q. What publications as of the year 1900?

A. The fountain of those estimates is the publication of the Supplement to the Iron & Steel Works Directory prepared by the American Iron and Steel Association, as of the year 1903.

Q. And you have nothing of the year 1900?

A. I have not.

Q. You were asked in regard to your testimony with respect to the relative output for the year 1911. Was your testimony as to that based upon papers prepared by others or upon papers prepared by yourself?

A. Papers prepared by others.

Q. Did you compare those papers with the originals?

A. I did not.

Q. Then, you do not know of your own knowledge whether they are correct or not?

A. Not of my own knowledge.

Q. You have not, as I understand, compared any of these papers that have been furnished you, or any of the publica-

tions upon which you have based your testimony, with any original copies?

A. I have not gone beyond the face of the returns in any case.

Q. And have not checked them up with any thing?

A. No, sir.

CROSS EXAMINATION,

By Mr. Lindabury:

Q. Mr. Roberts, did you prepare any tables of the capacity of the plants of the Bridge Company and its competitors for the years in question?

A. I have here tables showing the annual capacity of the shops of the American Bridge Company and of its competitors for the years 1904, prepared in February, 1904, 1905, 1906, 1907, 1908, 1909, 1910 and 1911, showing also the percentages of the capacity of the American Bridge Company's shops as compared with the capacities of their competitors.

Q. Have you any other table there?

A. I have also for the years 1902, 1903, 1904, 1905, 1906, 1907, 1908, 1909 and 1910 tables showing the bids tendered by the American Bridge Company, the orders taken, both domestic and export, and the percentages of work secured as compared with the work bid upon. I have also from the year 1904 to 1911 inclusive lists giving in detail the names, location and capacity of the shops of all the competitors of the American Bridge Company. These are the statistics upon which in detail the first table was made up.

Mr. Dickinson: Read that question, please?

(The stenographer read as follows:)

"Q. Have you any other table there?"

Mr. Dickinson: No, I mean the question before that.

(The stenographer read as follows:)

"Q. Mr. Roberts, did you prepare any tables of the capacity of the plants of the Bridge Company and its competitors for the years in question?"

MR. LINDABURY: He has answered that question.

MR. DICKINSON: I do not think he has.

MR. LINDABURY: If you want to criticise his answer, you will have a chance to do so later. He has answered it correctly, I think, and I cannot allow opposing counsel to stop the examination for the purpose of discussing with the witness whether he has answered a question or not.

THE WITNESS: I have also a compilation of the pages 12 to 22 of the supplement to the Iron & Steel Works Directory for 1903.

By MR. LINDABURY:

Q. You say the first report to which you refer, and which I see you have designated Report No. 1, was made up from certain sheets of a statistical character which you also produced?

A. Yes, sir.

Q. Those, for the purpose of identification——

A. Those sheets I might say are made up every month in every year.

Q. These sheets or sheets of this character?

A. Sheets of that character. Those are for the month of May, for each of those years.

Q. You have answered the question. Just pause a moment, will you not? It is the practice, you say, to make up similar monthly sheets?

A. It is.

Q. How long has that practice been followed?

A. Since 1903, I believe.

Q. You mean by the American Bridge Company?

A. By the American Bridge Company, yes. January, 1904, is the first; you have May, 1904, as your first sheet.

Q. Each one of these sheets you have produced is entitled "List of Competitors Operating Shops", and they are dated respectively May 16, 1904, May 15, 1905, and so on, one form for each year up to May, 1911. They are all dated May 15. When were these made up?

A. They were originally made up as of those dates and years.

Q. How comes it that we have only one a year?

A. I simply took samples, one for each year, to check up the relative results. You will find——

Q. No, that is enough. You have answered the question. Of course you took the same month each year?

A. That is correct.

Q. Of course, in order to have a fair sample, as you call it, you took the same month each year?

A. Yes.

Q. By whom were these originally compiled or made up?

A. I think by the Assistant Auditor of the American Bridge Company. I think he was Mr. Ball.

Q. I understand that a similar one is made up every month.

A. That is correct.

Q. From what data?

A. From returns made by the various selling agents of the American Bridge Company.

Q. In the regular course of business?

A. In the regular course of business, of the competitors which they meet.

Q. Now, using the data contained in these statements, you had report No. 1 made up?

A. That is correct?

Q. Is that right?

A. That is correct. You will find that that report is made up as of January, I think mostly January of each year, while your detailed reports are as of the month of May each year; but the differences are very immaterial.

Q. Are you able, from this report or otherwise, or from this report and the data upon which it is based, and your general knowledge of the business, to tell me what the percentage of the American Bridge Company in capacity was in 1911?

Mr. Dickinson: This is excepted to, because the answer called for would necessarily be based upon reports which the witness has stated he did not make up and were furnished to him by others.

By Mr. Lindabury:

Q. Will you answer the question? It calls for a yes or no answer.

A. I think I am competent to answer that.

Q. What was the percentage?

A. About 30 per cent.

MR. DICKINSON: What year?

MR. LINDABURY: 1911.

THE WITNESS: Between 30 and 31 per cent., I think.

By MR. LINDABURY:

Q. Do you know whether it had been as low as that in any previous year from 1904? I will say in any previous year of the company's business has it been as low as that?

A. I think it had been, yes.

Q. This report does not show it.

A. Then I am in error. I am speaking of the tonnage taken in comparison with the work tendered upon.

Q. That is not what I am asking.

A. I understand——

Q. I am asking about capacity.

A. I think it has been a gradually decreasing capacity annually.

Q. Are these data upon which that report was made up regarded by you as reliable?

A. They are.

MR. DICKINSON: I object to that as irrelevant and incompetent.

By MR. LINDABURY:

Q. Are they so regarded by your company in its business?

MR. DICKINSON: Objected to as irrelevant and incompetent.

A. They are.

By MR. LINDABURY:

Q. Have they been treated, acted upon by the company, since the system began, as authentic and reliable?

MR. DICKINSON: The same objection.

A. I so understand.

By MR. LINDABURY:

Q. Have you ascertained in any way what the percentage of capacity of the American Bridge Company was at the time of its formation—the first year, we had better say, of its business? Just yes or no.

A. Only in a general way, from my own estimates, based upon published statistics.

Q. Were those published statistics of a reliable character?

A. Those statistics are reliable——

MR. DICKINSON: Objected to, as it is not shown what statistics are referred to. Objected to as irrelevant.

By MR. LINDABURY:

Q. Were they based upon statistics that are ordinarily regarded as reliable and accepted in the steel business as authentic?

A. They were always so considered. They were the statistics of the American Iron & Steel Association.

Q. The same as those to which the Government has been appealing in this case?

A. The same.

Q. Very well. Then, as a result of your study of the statistics, coupled with your own familiarity with the business, tell us what the percentage of the American's output was in the year of its birth, the first year of its life?

A. May I refer to the testimony which I gave before the Stanley Committee?

MR. DICKINSON: I object to that.

By MR. LINDABURY:

Q. For what purpose?

A. For exact figures.

Q. Yes.

MR. DICKINSON: It is objected to. The witness is called to state his knowledge of the subject at the present time.

By Mr. Lindabury:

Q. You can tell approximately first.

A. I can tell approximately without it.

Q. Then we will get it exact afterwards, to please Judge Dickinson and me, both.

A. The tonnage of the American Bridge Company as of its formation——

Q. I would like you to omit that and give us the percentage, if you are able to.

A. Under 40 per cent.

Q. If you have anything by which you can give it more exactly, you may look at it, including your testimony before the Stanley Committee. Have you that testimony before you?

A. I have a memorandum made from it within the last forty-eight hours.

Mr. Dickinson: That is objected to.

By Mr. Lindabury:

Q. Made by yourself?

A. Made by myself. If it is objected to, I can refer to a certain page.

By Mr. Lindabury:

Q. Never mind. Just give us the figures.

A. The American Bridge Company, capacity 441,000 tons per year. The Bridge plants belonging to steel works, outside of American Bridge Company, 150,000 tons; bridge plants independent, 1,000,000 tons; making a total of 1,591,000 tons, bearing in mind those are gross and not net tons. You have on all these other statistics net tons, and these figures are gross tons. Therefore, you will want to add 12 per cent to compare them with all other tables.

Q. Now will you give me the percentage. That is what I asked for.

A. Less than 40 per cent.

Q. How much less?

A. I would have to figure it up.

Q. Oh, I see, you were not doing the arithmetic.

A. I was not doing the arithmetic.

Q. Can you tell me what the percentage of capacity was for each of the years thereafter, that you have on Sheet No. 1?

A. Yes.

MR. DICKINSON: Objected to——the witness using sheet No. 1. It is simply a memorandum from figures made by someone else, the correctness of which the witness knows nothing about.

MR. LINDABURY: I propose to offer in support of it the data.

MR. DICKINSON: We have not the support yet.

By MR. LINDABURY:

Q. Go on and give it.

A. February, 1904, 38 per cent, January, 1905, 36.2 per cent; January, 1906, 37.4 per cent; January, 1907, 36 per cent; January, 1908, 32.2 per cent; January, 1909, 32.8 per cent; January, 1910, 31.8 per cent; January, 1911, 30.1 per cent.

Q. Your report No. 2 is intended to show the bids made and the orders taken; that is, bids accepted for those years, from the Bridge Company, is it not?

A. That is correct.

MR. DICKINSON: This is excepted to on the ground that the witness has no right to refresh his memory by referring to the said paper, as he has shown that it was not prepared by him, and he does not know whether it is correct.

By MR. LINDABURY:

Q. How was this made up and by whom?

A. The American Bridge Company.

Q. At your request?

A. At my request.

Q. And in the way you directed?

A. At my request in May, 1911.

Q. What was it made up for?

MR. DICKINSON: Were you an officer of the Bridge Company then?

A. I was not an officer of the Bridge Company then.

By Mr. Lindabury:

Q. What was it made up for?

A. For the purpose of testimony before the Stanley Committee.

Q. And testified to down there?

A. Yes, sir.

Q. Authenticated by Mr. Stanley and his committee?

A. He seemed to accept it.

Mr. Dickinson: You do not know yet. You have not heard from him yet or seen his report.

The Witness: It is a long time coming.

Mr. Dickinson: Wait until you hear that and maybe you will not laugh about it.

Mr. Reed: We do not need to see it to know what it is like, Judge.

Mr. Dickinson: It may be like the writing on the wall, "Mene, mene tekel upharsin."

By Mr. Lindabury:

Q. Can you tell me roughly without my putting this before you, about the percentage of the bids tendered by the American Bridge Company that were accepted during the year 1910?

Mr. Dickinson: Objected to for the same reason.

A. Well, it would be less than 40 per cent.

Q. This gives it at 29.8 per cent.

A. I am too liberal.

Q. You you tell me about how it ran during preceding years?

A. Well, it never exceeded fifty, and was as low as 27 or 28, I think.

Q. So that the American Bridge Company's competitors secured during each year more than 50 per cent of the work that the American Bridge Company bid on?

A. That is correct, if the work was left.

Q. I mean if the work was left.

MR. DICKINSON: And if this paper is correct.

MR. LINDABURY: No; without regard to that.

THE WITNESS: I have no question in my mind about the correctness of this paper.

By MR. LINDABURY:

Q. And have you information enough, independent of this paper, to make that statement that the American Bridge Company did not get half the work on which it bid?

A. Yes; from my general knowledge of the trade I would say that is correct.

Q. Can you tell me what it was in 1908, and I will let you look at report No. 2 for the purpose of assisting you in giving your testimony.

MR. DICKINSON: Objected to as incompetent and irrelevant?

A. Including export work it was 24.9, and excluding export work it was 32.3.

MR. DICKINSON: Objected to as incompetent and irrelevant.

By MR. LINDABURY:

Q. Your report No. 3 is a compilation from the Swank reports. Do you know whether this is correct or not as a compilation?

A. I so believe.

Q. Was it made up under your direction?

A. It was.

Q. By careful and competent men?

A. The auditor of the United States Steel Corporation.

Q. Does he generally get things right?

A. I think if he did not we would know it before this.

MR. DICKINSON: Objected to as irrelevant and incompetent.

By Mr. Lindabury:

Q. For the purpose of aiding in the interpretation of this paper and giving such information as you are able without regard to it, can you tell me what an examination of the Swank report shows the capacity of the Bridge Company to have been in the year 1902?

A. Rather lower than the Bridge Company itself has estimated it.

Q. How low?

Mr. Dickinson: Excepted to as irrelevant, incompetent and improper examination.

A. It is about 32 per cent; not quite that much, I think, if you will exclude two works belonging to the Steel Corporation.

Mr. Dickinson: Excepted to as irrelevant and incompetent.

By Mr. Lindabury:

Q. Inasmuch as your recollection entirely agrees with this paper, you have no doubt of the correctness of Mr. Filbert's work, have you?

A. None whatever.

Mr. Lindabury: I offer in evidence the reports numbered 1, 2 and 3, and the monthly list of competitors operating shops from May, 1904, down to May, 1911.

Mr. Dickinson: These papers are objected to on the ground that they are not shown by the witness to have been authenticated or to have been prepared by him, or that he has any knowledge of their correctness, and that they are hearsay.

Mr. Lindabury: (To the stenographer) Mark them in the order in which I hand them to you.

(Report No. 1, annual capacities of structural steel shops, was offered in evidence and marked "Defendants' Exhibit Roberts No. 1, May 24th, 1912.)

(Report No. 2, was offered in evidence and marked Defendants' Exhibit Roberts No. 2.)

(Summary of capacity of bridge building works was of-

fered in evidence and marked Defendants' Exhibit Roberts No. 3.)

(List of competitors operating shops May 16, 1904, was offered in evidence and marked Defendants' Exhibit No. 4, May 24, 1912.)

(List of competitors operating shops May 15, 1905, was offered in evidence and marked Defendants' Exhibit Roberts No. 5, May 24, 1912.)

(List of competitors operating shops May 15, 1906, was offered in evidence and marked Defendants' Exhibit Roberts No. 6, May 24, 1912.)

(List of competitors operating shops May 15, 1907, was offered in evidence and marked Defendants' Exhibit Roberts No. 7, May 24, 1912.)

(List of competitors operating shops May 15, 1908, was offered in evidence and marked Defendants' Exhibit Roberts No. 8, May 24, 1912.)

(List of competitors operating shops May 15, 1909, was offered in evidence and marked Defendants' Exhibit Roberts No. 9, May 24, 1912.)

(List of competitors operating shops May 15, 1910, was offered in evidence and marked Defendants' Exhibit Roberts No. 10, May 24, 1912.)

(List of competitors operating shops May 15, 1911, was offered in evidence and marked Defendants' Exhibit Roberts No. 11, May 24, 1912.)

(Whereupon, at 4 o'clock p. m., the hearing was adjourned until Monday morning, May 27, 1912, at 10:15 o'clock a. m.)

FOURTEENTH DAY.

Room 720 Custom House,
NEW YORK, N. Y.,

Monday, May 27, 1912.

The hearing was resumed at 10:15 o'clock a. m., before Special Examiner John Arthur Brown.

Appearances the same as heretofore noted.

PERCIVAL ROBERTS, JR.,

the witness under examination when the adjournment was taken, resumed the stand for further examination.

RE-DIRECT EXAMINATION.

By MR. DICKINSON:

Q. Mr. Roberts, you were asked upon re-cross examination:

"Did you prepare any tables of the capacity of the plants of the Bridge Company and its competitors for the years in question?"

And you answered that you had tables showing the annual capacity of the shops of the American Bridge Company and of its competitors for the year 1904 and you mentioned other years.

Did you mean to say, by that, that you had prepared those tables yourself?

A. That I had prepared them?

Q. Did you prepare them?

A. No, sir; I did not; and I so stated. They are not the work of any one man.

Q. You were also asked about other tables in that connection, in the next question to the one in which you were asked whether you prepared the tables, and you answered that you had also for the years 1902 to 1910 inclusive tables showing the bids tendered by the American Bridge Company, the orders taken, and so forth; and also from 1904 to 1911 inclusive, lists giving in detail the names, location and property of

the shops of all competitors of the American Bridge Company.

Q. Did you prepare those tables?

A. I did not; and so stated.

Q. Referring to the paper marked Defendants' Exhibit No. 1, and also to Report No. 1, which you used, you say that it was made up from certain sheets of a statistical character. Did you prepare those sheets of a statistical character upon which this report was made?

A. I stated that that report had been prepared——

Q. If you will not tell me what you stated, but will simply answer my questions, I think it will facilitate matters, Mr. Roberts.

A. I did not prepare that report, and so stated.

Q. I did not ask you if you prepared that report. I asked you if you prepared certain sheets of a statistical nature from which this report was made up.

A. I stated, yesterday, that I prepared nothing subsequent to the year 1900; that the estimate as of the year 1900 was made up by me, but that all data subsequent to that had not been made by me, and were prepared either by the American Iron & Steel Association or by the officials of the American Bridge Company.

Q. I do not want you to tell me what you stated, but I want you to state now.

A. I state that now.

Q. That is, that you did not prepare any sheets of a statistical character upon which Report No. 1 was based?

A. I so stated, and again state.

Q. Did you see those sheets of a statistical character when they were being made up, and the data from which they were made up?

A. I never saw them until they were handed to me in their finished form.

Q. Did you ever see the data from which they were made up?

A. I did not.

Q. Are you now a director or an officer of the American Bridge Company?

A. I am not.

Q. How long is it since you were a director or officer of the American Bridge Company?

A. Not since the year 1902, I think.

Q. Do you know, of your own knowledge, that sheets of the character we have just been talking about were made up every month in every year, covering the period embraced by these sheets that you have exhibited here?

A. I believe I do. Of which sheets are you speaking?

Q. The sheets from 1902 to 1910, and the sheets upon which Report No. 1 was based.

A. Referring to Report No. 1, the details as to the capacity of the competitors of the American Bridge Company were made up monthly, and those sheets are in evidence. I cannot say that the other data on those sheets were made up monthly, as they are given in annual periods.

Q. You say they were made up monthly?

A. I do.

Q. Were you present when they were made up monthly?

A. I was not present when they were made up; nor were they made up by any one individual.

Q. You never saw any of the processes of making them up while they were going on?

A. I have seen some compilations being made of them; but the sheets came in from the various selling agents of the American Bridge Company. They are not the work of any one individual.

Q. Where did they come to? You say they came in.

A. They first came into Pittsburg, and from there they were transmitted to New York. I have seen them being compiled in the New York office.

Q. In what New York office?

A. In the New York office of the American Bridge Company.

Q. Did you yourself examine these statistics from which they were compiled?

A. I did not.

Q. You do not know what they were, except in a general way?

A. I knew that they were statistics that had been sent in by their selling agents.

Q. You do not know how they were made up by the selling agents?

A. I do not.

Q. Nor when they were made up?

A. I do not; except that they were made up monthly.

Q. Take the ones that were made up monthly in 1902. How many of those did you ever see, and when?

A. I do not recall that there are any such sheets for the year 1902.

Q. Well, for the year 1903?

A. I think 1904 is the first year of those detailed sheets.

Q. Take the year 1904, then.

A. What is the question?

Q. When did you last see them, the originals?

A. I do not know that I ever saw the originals for 1904.

Q. Did you ever see the originals for 1905?

A. I do not think I ever saw the originals for any year or any month. I have seen copies of the originals.

Q. Did you see the copies compared?

A. I did not compare them, no.

Q. You only say what purported to be a copy?

A. I have seen only the copies which I have produced here.

Q. Copies which you did not make yourself?

A. Copies which I have said, two or three times, I did not make myself.

Q. Of your own knowledge, how long has the practice of making up these monthly sheets been followed?

A. To my own knowledge I can only say what has been reported by officials of the American Bridge Company to me. If that is knowledge, I know of the matter; if it is not knowledge, I know nothing of it.

Q. Referring to this list that you have produced here, the first one dated May 16, 1904, and going on down, the last one being dated May 15, 1911, entitled "List of competitors operating shops," what classes of work were the shops included in that list doing in competition with the American Bridge Company?

A. Fabricating frame structure, composed mostly of steel —mostly or principally of steel.

Q. And all those included in that list put down as competitors of the American Bridge Company were doing that work which you have indicated, for the respective years, were they?

A. I believe they were.

Q. Do you have any personal knowledge that they were?

A. To a greater or less extent, probably I was not familiar, I would say positively I was not familiar, with every individual shop named on that list.

Q. Do you undertake to say that those set down as competitors operating shops, upon those lists, for the several years from May 16, 1904, to May 16, 1911, inclusive, were for the respective years actual competitors of the American Bridge Company?

A. I believe they were, for the following reasons: They were lists made by selling agents of the American Bridge Company during the months of these several years named, for the sole purpose of furnishing information to the company as to who its competitors were, and the nature of their business, and the capacity of their shops. To my mind it would have been manifestly a fool's operation if they did not correctly represent the situation. They were not compiled for any purposes of legal proceedings, but were simply the reports furnished during the current operations of that company.

Q. Did you, yourself, see any of those reports for the year 1910?

A. The first time that I saw——

Q. Will you not answer that question, whether you did or did not?

A. Let me have the question again.

(The question was repeated by the stenographer, as follows:)

"Q. Did you, yourself, see any of those reports for the year 1910?"

A. At what time?

By Mr. Dickinson:

Q. Any time. The original reports sent in by those selling agents.

A. I have said that I did not see any original reports. I have seen copies of those reports; I have seen all the copies which I handed to you on Friday last covering each of the months of the years named on the reports.

Q. The papers you handed in do not purport to be copies of the reports made by the selling agents, do they?

A. They do, and they are copies.

Q. Are they copies or compilations from them?

A. Copies.

Q. Do you mean to say——

A. I beg your pardon; I understand you mean that that embraces——.

Q. I mean just what I say; whether or not these are copies of what you have produced here of the actual reports sent in by the various selling agents.

A. Yes, they ar[illegible]

Q. You say they are?

A. They are simply the reports put in one detailed list. Those reports are made up from different sections of the country, from the selling agents in different sections, and, simply, they are embraced in that one list.

Q. And you say you never saw any of the originals that came in from the selling agents?

A. That is correct.

Q. And never compared this with them.

A. I have so stated a number of times.

Q. Nevertheless you say these are copies of those reports, do you, of your own knowledge?

A. From information given, furnished by others, I believe they are.

Q. Do you know anything about it yourself?

A. Manifestly I do not; I never said I did.

Q. When were these that you have produced here, these actual papers, from May 16, 1904, to May 16, 1911, made?

A. That for May, 1911 was made for me during the month, I think, of May or June, 1911. The others I asked for and they were furnished subsequently to the commencement of this suit.

Q. Were they made up or are these originals?

A. They were copied from originals which were on file in the archives of the company.

Q. From whom did you get the information that the originals from which these are copies are on file in the archives of the company?

A. From Mr. Ball, the assistant auditor of the American Bridge Company.

Q. Were these reports made under your direction?

A. They were not, beyond the fact that I asked for certain information and that was furnished to me.

Q. When did you ask for that information? I refer to the information embodied in these reports from May 16, 1904 to May 16, 1911?

A. I asked for the information as of the year 1911, about a year ago.

Q. As to the others, when did you ask for it?

A. The other information I asked for subsequent to the commencement of this suit; the exact date I do not remember.

Q. Were they made up after your examination began in this case or not?

A. Some of them may have been.

Q. How many were furnished to you after your examination began in this case?

A. I am not clear how many I had prior to that.

Q. Did you have any more than the one prior to 1911, prior to that?

A. That I am unable to say; but since my examination commenced I asked that the set be made complete.

Q. Do you personally know who compiled the information that came from these sales agents? Do you know of your own knowledge who did that?

A. No; some of the stenographers.

Q. Do you know——

A. I do not know that personally, no.

Q. (Continuing). Of your own knowledge who made up those lists you have furnished from May 16, 1904?

A. No; I have said that from my own knowledge I know nothing in regard to those years you have mentioned, 1904 and subsequent years.

Q. Do you know of your own knowledge that similar

lists were made up in the course of business of the American Bridge Company every month for each of the years named?

A. To the best of my knowledge and belief the originals are now on file in the archives of that company.

Q. From whom have you the information that the originals made up each month for the years 1904 to 1911 inclusive from the reports made by the sales agents are on file in the archives of that company?

A. From Mr. Ball, the assistant auditor.

Q. When did he give you that information?

A. Friday of last week.

Q. Mr. Roberts, does the American Bridge Company compete generally for contracts for structural work or work of the character that you have indicated here in this list of competitors operating shops, where the tonnage of the contract is less than ten tons?

A. Yes; under certain conditions they would take contracts of 10 pounds. It is impossible to place any limit upon the size of a contract which a concern of that kind would take. For instance, its customer of to-day, who may have a contract of 10,000 tons, may to-morrow have a contract for a single beam, and the company meets the requirements of its customers without regard to tonnage or size of contracts. It is impossible to fix any hard and fast line in that respect.

Q. Suppose they are people who are not its customers, have they generally been competing for work of that character?

A. Yes; they would compete for work of any size.

Q. Can you name a single contract that they competed for in the year 1911 where the tonnage involved was not over 10 tons?

A. It would be impossible for me to do that. I could furnish that information from their books.

Q. I am asking for what you know.

A. Oh, no; I know nothing of their individual contracts.

Q. Can you name any contract of any character that they took in the year 1911?

A. Of any character?

Q. Yes.

A. I probably know a few of the more prominent ones.

Q. Name them.

A. Offhand I do not know that I could name them. There were a number of large buildings here in New York, or bridges.

Q. Can you name any contract?

A. I would not undertake to name any contract, no.

Q. For any of the years?

A. Not at all. I could furnish you any information of that character you want from their books.

Q. I want the information you have, Mr. Roberts.

A. I have none whatever.

Q. None whatever?

A. No, sir.

Q. Can you name any of those who competed wth them in any of those years?

A. No, sir. I would be glad to furnish you with any information of the kind you desire from their books.

Q. That is, if the books of the company show it?

A. From the books of the American Bridge Company. I have no connection with any other company.

Q. You were asked, Mr. Roberts, to state from this Report No. 1 or otherwise, or this report and the data upon which it is based, and your general knowledge of the business, what the percentage of the American Bridge Company in capacity was in 1911, and you answered that it was between 30 and 31 per cent., you thought. Was your answer based entirely on this report or not?

A. Entirely upon that report.

Q. And not upon any other data or any other information that you had?

A. I know of no other data or information upon the subject. Of course, that report is corroborated by Sheet No. 2, which I offered in evidence.

MR. LINDABURY: Your view of legal evidence seems to have undergone a change since you had Mr. Dean on the stand, Judge.

MR. DICKINSON: I am examining the witness for the foundation of his statement, Mr. Lindabury. Inasmuch as I chal-

lenged the question, you asked him to answer upon this report or otherwise and upon data upon which it is based and his general knowledge of the business, and he said he so answered it. Now I understand that his answer was based upon this report, and that alone.

By MR. DICKINSON:

Q. Is that correct, Mr. Roberts?

A. For the year 1911, my answer is based upon that report.

Q. That is what I understood you to say.

A. And also the other Sheet No. 2, to which I have also referred.

Q. That is based on these two reports?

A. On these two reports.

Q. Entirely?

A. On these two reports, for those data, yes.

Q. If it was based on anything else I want to know it.

A. Of course, I have a general knowledge of the structural situation in the United States. I was engaged in it for more than twenty-five years actively, and since the year 1900 more or less engaged in it indirectly, and I have a general knowledge. But when you come to ask me for the exact data, I give you those sheets. While I can talk in round numbers, of course it is manifestly impossible off hand to substantiate my statements unless I produce data of that kind which I believe to be correct.

Q. When you answered between 30 and 31 per cent., did you base that answer upon these reports solely or not? If you did not, then I want to know on what else you based it.

MR. LINDABURY: He has just answered that.

MR. DICKINSON: The witness talks so much, you know.

MR. LINDABURY: I object to the question as already answered.

MR. DICKINSON: Read the question.

(The question was read by the stenographer as recorded.)

A. My last answer will cover that question, and I again state what I said in answer to the previous question.

By Mr. Dickinson:

Q. I will ask you, Mr. Roberts, whether or not you based it upon anything except these reports when you gave that percentage.

A. That percentage is the result of the statistics in those reports. I might make an estimate which would vary 2, 3 or 4 per cent. from that; but that definite percentage given is the compilation of the figures given in those two reports.

Q. All right. What connection have you had with the bridge business since 1902? You stated, I believe, that you had been indirectly connected with it.

A. Up until the year 1902 I was a director in the Steel Corporation. I retired in the year 1902, and again became a director in the year 1909. Between those two dates there is a gap in my direct connection with the steel business, and what I learned was simply in a general way from time to time from trade papers and from intercourse with those who were directly engaged in it.

Q. You were asked, Mr. Roberts, if your company regarded these data in this business as reliable. In your answer what company did you mean?

A. The American Bridge Company and the United States Steel Corporation.

Q. So when you answered that, you meant to imply both companies, the American Bridge Company and the United States Steel Corporation?

A. I did, and I think the public generally.

Q. When the question was asked you: Have these data been treated and acted upon by the company since the system began as authentic?" and you answered: "I so understand" What did you mean by "the company?"

A. I had in mind the American Bridge Company.

Q. You were asked what the percentage of capacity of the American Bridge Company was at the time of its formation—the first year, we had better say—of its business. In answering that, what did you include in the first year? The calendar year or the twelve months following the organization?

A. That was an estimate prepared entirely by me. I simply assumed as of about the year 1900.

Q. So it applied to the year 1900, did it?

A. About that time, yes.

Q. It applied to the calendar year 1900?

A. About that time, yes.

Q. In answering for the year 1900, on what statistics did you base your answer?

A. The answer was based upon my general knowledge of the bridge business as of that time. In regard to which I believe I was qualified to speak. My connection with the manufacture of structural material had been intimate since the year 1876. I had built the bridge works of the Pencoyd Iron Works, and that works, as of the year 1900, was probably the largest and most active fabricating shop in the United States. I used as data the compilation of the American Iron & Steel Association as of the year 1898, and also as of January 1, 1903. These statistics, prepared by the American Iron & Steel Association, were the estimates given to it by each individual fabricating concern of their own capacity at the dates mentioned.

From these statistics and my own knowledge, I estimated the situation in the country as of the year 1900, in regard to which year I found no published statistics whatever, and the results which I gave were the estimates which I made from those statistics.

Of course, like all such estimates, they are not dealing with actual facts, such as production; they are dealing with capacities, and they are, therefore, subject to a certain range of error. I have no question at all but that, in going over those figures, I might vary them again five per cent. more or less; but the limit of variation is within what would be considered reasonable limits for that class of work.

The capacity is not a positive, definite amount. For instance, a shop may consume as much time on a 10,000 ton contract as it does on a 5,000 ton contract, and its capacity be up to its maximum in both cases, due to the fact that the amount of work performed on one contract may be the same, but the tonnage in the contract different. Therefore there is no hard and fast measure. If we say the capacity of a shop is 10,000 tons, another man may estimate it at 12,000 tons. Another may estimate it at 8,000 tons. It is no definite, fixed sum, like

a production, where we can say: "Our production last year was 10,000 tons." That is another matter. I think there has been some misapprehension in regard to what I have been testifying to here.

Q. You say that you used the statistics for 1903?

A. I did.

Q. Have you got the estimates that you made, based on that?

A. I have no data excepting what I testified to here on Friday last.

Q. You took the estimates in 1903. How did you correct them for 1900?

A. By allowing a certain relative increase for certain shops during the period which had elapsed from 1900 to 1903.

Q. Did you know what the production from those shops was from your own knowledge, for 1900?

A. I knew them in a general way, yes. Many of them were competitors, and some of them were customers.

Q. Was the Fletcher & Crowell Company one of these competitors?

A. I do not know them at all.

Q. Do you know what their capacity was in 1903?

A. I do not.

Q. Do you know what it was in 1900?

A. I do not. For any such data as that I would refer to the publication which you have in your hand. It is the only one I had.

Q. But there was none for 1900?

A. No. I based our extensions on a definite progressive amount from the year 1898 to 1903, and then averaged it.

I had the results for 1898, published by the American Iron & Steel Association. I also had the results for 1903, and in checking up the changes in the capacity of the various shops, I had those two periods; and also, taking the list of new establishments which had started up in the meantime, I arrived at the result which I did for the year 1900. If I recall correctly you will see the great change which has taken place from the fact that in 1898 the number of shops in the country was 80 and some odd, with a production of about 800,000 tons,

whereas in 1903 there were 140, with a production of a million and some seven or eight hundred thousand tons.

Q. You say you allowed a percentage of progression?

A. I did.

Q. How did you distribute that?

A. I distributed it over a period; that was a five year period.

Q. I know, but how did you distribute it between the competitors, socalled?

A. I do not understand your question.

Q. You took a competitor that appeared in the directory in 1903—and there was a long list of them, was there not?

A. Yes.

Q. Now, you say you allowed for an assumed increase between 1900 and 1903. What percentage did you allow?

A. That was a five year period.

Q. I am just asking you what you did.

A. I am trying to tell you what I did.

Q. Do not suppose, just answer what you did.

A. I am trying to tell you what I did.

Q. Do that, then.

A. There was a five-year period. Assuming that any one shop appeared, for instance, say, in 1908, with a capacity of 10,000 tons, and appeared five years hence with a capacity of 15,000 tons, I considered that half-way between the two it was entitled to a capacity of 12,500 tons. That was merely an estimate.

Q. So that is the way, by that arbitrary distribution, that you reached your figures for 1900, is it?

A. Yes; and I believe them to be reasonably correct.

Q. You compared 1903 with 1898, did you?

A. That is correct.

Q. You took the statistics showing the output——

A. No, sir.

Q. What did you take?

A. I took the statistics showing the capacity——

Q. I mean to say the capacity.

A. The capacity of the shops as reported to the American Iron & Steel Association by the shops.

Q. And as they appeared in those publications for 1903 and 1898?

A. That is correct.

Q. And based upon the capacity as shown for the several shops in 1898 and 1903, you arrived at this conclusion that you speak of?

A. And using my own judgment and based on my general knowledge of the conditions.

Q. But you did assume that as a foundation—the capacities as shown in this Iron & Steel Directory for the years 1898 and 1903? You took that as a starting point, did you?

A. They were the lists of shops which I used in my compilation.

Q. And the capacities as shown in that publication for those respective years?

A. That is correct.

Q. Mr. Roberts, I show you this publication for 1898. Please find in that book the capacities shown by your competitors for that year (handing witness a book)?

A. I refer to bridge building work, at page 278 to page 284.

Q. Let me see that, please.

A. I think you got the wrong kind of work when you handed the book to me. I think you were looking at structural works.

Q. Take the Vermont Construction Company. Did you know what the capacity was there for 1898?

A. For full details of tonnages or capacities, I refer to the volume in question. I do not carry them in my mind.

Q. Was the construction company a competitor of your company in 1900?

A. I should say it was.

Q. Do you know whether it was?

A. I think it was.

Q. Take the Boston Bridge Works. Was that a competitor of your company in 1900?

A. An active competitor.

Q. Take the Hawkins Iron Works, Springfield. Was that a competitor of your company in 1900?

A. So far as I know it was.

Q. Do you know whether or not it was?

A. Yes, sir; I should say it was.

Q. The New England Structural Company, East Everett. Was that a competitor of your company?

A. Yes. Are you speaking now of the year 1900 or 1898?

Q. I am speaking of the year 1900.

A. Yes.

Q. Take the year 1903. Was the Lane Bridge Company a competitor of yours?

A. The Lane Bridge Company, I cannot answer. It is a small concern, and whether it was still in existence as of 1903, I cannot at this time say.

Q. How about 1900?

A. I cannot answer offhand without looking it up. The Lane Bridge Company was a small concern.

Q. Take the Jackson Architectural Iron Works. Was that a competitor of your concern in 1903?

A. Yes, sir; it was.

Q. What did it make?

A. It made structural work for buildings. A portion of its manufacture was ornamental cast iron, cast bronze.

Q. How did you get the capacity of that company in 1903, for making your deductions as to 1900?

A. I would take the tonnage, if it was given there, and compare it with the tonnage as of 1898.

Q. Did you get any tonnages except those that were given here at that time?

A. Where the tonnages in that book were omitted, I neglected them as not being of substantial importance. Some few of the concerns did not give any tonnage, but it did not affect the general result.

Q. Do you know the Levering & Garrigues Company of New York City?

A. I do.

Q. Did they compete with you in the year 1900?

A. They did. They were both a competitor and a customer.

Q. Did they have any plant?

A. They did.

Q. In 1900?

A. Yes, sir.

Q. What was the capacity of it, if you know?

A. I do not know. It is referred to in that book, I believe. You will find it there.

Q. It is for 1903, but is not shown here for 1900?

A. You will not find any capacities referred to there for 1900.

Q. No, I understand that. Was the Allentown Rolling Mill a competitor of yours in 1900?

A. If it was, it was a very small one.

Q. Was it in 1903?

A. I would make the same answer.

Q. Do you know whether it was a competitor or not?

A. To the extent that it operated, it was a competitor, yes.

Q. Do you know if they ever bid on any contracts that your company bid on?

A. I do not know that. We are dealing not with operations, but discussing capacities. Operations are an entirely different matter, and I furnished no statistics whatever as to the operations of any other plant.

Q. What do you mean by operations and capacities? Do you mean to say that if you furnished capacities you gave figures for capacities only, and did not refer to any output whatever those years?

A. I say that every shop that I testified to might have been closed up during the entire ten-year period and not affect their capacity.

Q. You are only giving capacities?

A. I have never said anything other than regarding capacity.

Q. So when you speak of these companies for these several years as being competitors of your company, you do not mean to say that they were actual competitors, bidding on the same class of work, but that they had capacity of a certain production. Is that correct or not?

A. We have not touched production in any manner, shape or form; we have dealt entirely with capacities.

Q. So when you present lists here, showing your com-

petitors for several years, you merely mean to say that those people had capacities for those years?

A. Those lists so state.

Q. This report No. 1 sets down for the seven years from 1904 to 1911, inclusive, the capacities of competitors. Do you mean to say those people included in those summaries for the several years were actual competitors with you in business, or that they had capacities to produce that amount?

A. That list gives the capacities of competitors of the American Bridge Company. They were all competitors, and those are the capacities of their shops. Is that clear?

Q. No; it is not clear, because I understood you to say a while ago that you were only speaking of capacities, and not of competitors, and that you had not spoken of competitors at all.

A. I did not say that at all, sir.

MR. LINDABURY: Pardon me. He said he had not spoken of production.

MR. DICKINSON: No; competition.

THE WITNESS: Competition. I said I had not spoken either of competition or production; I had spoken of the capacities of the shops of the competitors.

Q. Do you mean to say that these capacities shown on report No. 2, for the several years from 1904 to 1911, under the heading of competitors, represent those who for those several years were in actual competition with your company for the kind of work in which it was engaged in serving the public?

A. I do.

Q. Do you know whether all those included for those several years were operating for those several years?

A. I have not taken up the question of operation at all.

Q. What do you mean by "the question of operation," as distinguished from capacity, Mr. Roberts? I do not know that we exactly understand each other, and I would like to understand you.

A. I mean just as great a difference as there is between day and night. One has nothing whatever to do with the other.

Q. Do you mean to say if a concern is not operating and is not competing that it may be a competitor?

A. Of course.

Q. Therefore, under this list of competitors, you include all those who had shops, but may not have been operating for those several years?

A. That is another question.

Q. Answer it, will you?

A. I say I have no statistics as to operation beyond the statistics of the operations of the American Bridge Company. Naturally I could not have. I have no access to the records of any corporation other than the American Bridge Company. I produced the records of operation of the American Bridge Company as circumstantial evidence in regard to capacity, but beyond giving you capacities of other works as furnished to the American Iron & Steel Association by their owners, I have no records, nor are there any records in existence as to the operations of those shops during the years in question.

Q. And whether they were in actual competition or not you do not know?

A. They were competitors.

Q. I mean by competitors, were they running their shops for those several years and bidding against your company for the same classes of work?

A. Yes; they were live, going concerns; there is no question about that.

Q. And do you know that these concerns, making up the aggregate for the year 1904, under the list of competitors, amounting to 1,016,000 tons, were in operation to that amount in the aggregate during that year, and were in competition with the American Bridge Company?

A. I do not think your figure is correct.

Q. Maybe it is not. Read the question.

(The question was read by the stenographer as above recorded.)

Q. Now answer the question.

A. I do not think the tonnage is correct.

Q. Look at that, will you (handing witness defendant's Exhibit No. 1.)? That is the way you have it there.

A. That is correct, 1,016,000 tons.

Q. Now, read the question.

(The question was read by the stenographer as above recorded.)

A. Upon information I believe that they were.

Q. Do you know of your own knowledge?

A. As to each individual concern I do not.

Q. Can you give the approximate amount, of your own knowledge as to the aggregate capacities of the firms in 1904 which were actual competitors of the American Bridge Company?

A. I refer to that list.

Q. Can you give anything else other than that list—any information?

A. Not in detail.

Q. You have put into that list, under the head of competitors, all whom the reports upon which this list was based show during that year were equipped for making that class of work. Have you any knowledge as to the extent to which they were actual competitors, meeting you in the trade and bidding on the same things that the American Bridge Company was bidding on for that year? I mean the tonnage.

A. I believe there are no such data in existence.

Q. Would your answer be the same as to the other years?

A. It would be.

Q. State whether or not William B. Scaife and Sons Company, of Pittsburg, were, during the year 1900, competitors of the American Bridge Company, actually bidding for the same class of work that it was bidding for?

A. I believe that they were.

Q. From the method that you have described, I assume that you took their tonnage as shown in this book, did you (handing witness Iron & Steel Supplement for 1903), and then made an allowance in the way that you have described?

A. If the tonnage is given there I did, yes.

Q. Will you please read the tonnage given there?

A. William B. Scaife & Sons Company, 221 First Avenue, Pittsburg. Works at Oakmont. Railroad and highway bridges, and iron and steel buildings. Also builds tanks,

stacks, turntables, car trucks, etc. Annual capacity 30,000 tons.

Q. You understand that to mean their total annual capacity of all their products?

A. I so understand.

Q. In making your estimate of competitive works for 1900, what allowance did you make, if any, for that portion of their capacity represented by tanks, stacks, turntables and car trucks, etc?

A. None whatever. The American Bridge Company shops did the same character of work.

Q. What proportion of the capacity of the American Bridge Company was taken up in the manufacture of tanks?

A. As large a proportion as would be necessary to fill orders taken.

Q. Where were they made?

A. At various shops.

Q. Mention them.

A. In the shops at Pittsburg; some in the shops in the east. No shop is limited as to the character of the work which it can do. Some shops, in preference, may develop certain lines of trade, such as railroad bridges, highway bridges, office buildings, mill buildings, but all those shops of the American Bridge Company could build any character of frame structure, and they do it. They build boats. For instance, one of the shops in Pittsburg built and still continues to build barges for loading coal to go down the Ohio and Mississippi Rivers. So that they were not confined even to structures on land; they built them for the water as well. That is another type of tank building.

Q. In making your estimate of percentages of the capacity of the American Bridge Company for the years 1904 to 1911, inclusive, did you include in those aggregates the capacities for tanks, turntables, car trucks, etc.?

A. I included the capacity for all classes of frame structures composed principally or chiefly of steel.

Q. Did you include tanks, stacks, turntables, car trucks, etc.?

A. Any kind or character of structure composed principally of steel.

Q. Perhaps we are not as well informed as you are as to what is principally composed of steel. Now, you will oblige me by answering the question whether or not you included the capacity for tanks, stacks, turntables, car trucks, etc.

A. You asked me a technical question and I gave you a technical answer.

Q. I would like to have a reply from which a man who does not know nearly as much as you do would get the information, and that is whether or not in those percentages you included their capacity for such work as tanks, stacks, turntables, car trucks, etc. Can you not tell me whether you did include those, or whether you did not?

A. I would like to answer your question, but I really cannot understand its meaning. No fabricator of structural work has any idea what the nature of his contracts is before they are taken. He may take a turntable today, a stack or a tank tomorrow. He may not take them again for six months. It is not like running on nails or barbed wire, or something which is a standard output and on which your tonnage can be reckoned exactly, because it is a standard product, and you make your material prior to your contract. But when you come into the structural work the proposal or invitation is received before you can know what your output is going to be, and while a shop to-day may build a stack, tomorrow it may build a turntable and may not have another stack for a year. Therefore, you cannot say that there is a definite capacity allotted to stacks, and a definite capacity allotted to tanks; but you take about so many tools in a shop, and about the character of the tools, and they have an estimated capacity; whether they run on tanks, or whether they run on stacks makes no difference whatever. I cannot answer the question as you put it.

Q. Mr. Roberts, in your report No. 1, under the head, "Annual capacities of structural steel shops," you had for the year 1901 the American Bridge Company, 627,000. Now, does that capacity include the capacity of the American Bridge Company to produce tanks, stacks, turntables, car trucks, etc., along with other things, or does it not?

A. Such as they had the capacity to produce were included in that estimate.

Q. So that is included in that estimate?

A. Yes, sir.

Q. For each of the subsequent years was its capacity to build tanks, stacks, turntables and car trucks included?

A. It was.

Q. How about boilers?

A. They did not build boilers.

Q. Mr. Roberts, in estimating, then, the percentages for a particular year for what is known as bridge and structural work, do you include in those estimates the capacity to build tanks, stacks, turntables, car trucks, and so forth?

A. I include the entire capacity of the shops.

Q. And so, in listing those that you have given the capacities of, under the head of competitors, you included every character of work made by those competitors as shown in this book for 1903, or did you not?

A. I used the capacities given in that book for 1903.

Q. Mr. Roberts, in answer to the inqury as to the percentage of the American Bridge Company output in the year of its birth, the first year of its life, you answered:

"The American Bridge Company, capacity 441,000 tons per year. Bridge plants belonging to steel works, outside of American Bridge Company, 150,000 tons; bridge plants independent, 1,000,000 tons; making a total of 1,591,000 tons, bearing in mind those are gross and not net tons."

You say that you add 12 per cent. to give the correct figures for net tons.

That would increase the 1,591,000 by 12 per cent. for the year 1900? That is to say, there would be more net tons than gross tons—

A. About 12 per cent. more net tons.

Q. Do you mean to say that, in 1900, the capacity was 1,781,920 tons in respect to those things as to which the American Bridge Company was a competitor with the other companies that you have assumed were its competitors in that year?

A. Assuming the data furnished by each concern of the capacity of its own shops to the American Iron & Steel Association, I believe that statement to be a fairly correct estimate.

Q. And that is the basis on which you got your percentage that you have given for the year 1900, is it?

A. That is the basis.

Q. Was the capacity more or less in 1900 than it was in 1904?

A. The statistical sheets which I have already put in evidence show that. My recollection is that it was a gradually expanding business, although the relative capacity of the American Bridge Company to its outside competitors fluctuated somewhat, due to changes which were being made within the company, the abandonment of old shops and the starting of new ones, among which was the shop at Ambridge, a very large new shop, which took the place of some of the older ones.

MR. DICKINSON: I will ask the stenographer to read the question.

(The stenographer repeated the question as follows:)

"Was the capacity more or less in 1900 than it was in 1904?

THE WITNESS: The capacity of what?

By MR. DICKINSON:

Q. The capacity of structural steel shops.

A. For the country?

Q. Yes.

A. For the entire country?

Q. Yes.

A. The total?

Q. Yes.

A. I say that it was a gradually expanding business; but whether the total capacities for that particular year exceeded those of the year 1900, I am unable to say without reference to the statistical sheet which you have. While, as a matter of fact, over a course of years it did constantly increase, there may have been operations covering certain periods within that term of years, due to causes which I have explained, such as changing of shops of the American Bridge Company, whereby their capacity temporarily fell below what its average normal capacity was.

Q. When did they begin those changes?

A. Almost immediately after the formation of the American Bridge Company.

Q. How long before they got the main ones made?

A. That extended over a period, I think reaching until 1905, possibly; and then another era took place and has just been completed, now, at Gary. So that, through that entire time, there have been changes which might temporarily affect the percentage, but not as a whole proposition extending over a term of years.

Q. I understood you to say, Mr. Roberts, that after the formation of the American Bridge Company the number of competitors began at once to increase and did steadily increase?

A. They did.

Q. They continued to steadily increase in their capacities?

A. That is correct. You had a statement to that effect here the other day from Mr. Marshall, showing the increase of the independents.

Q. Was the total capacity less in 1900 than it was in 1905, or greater?

A. I should say that it was less; but I would again refer, for exact details of figures, to the sheet which you have.

Q. What would you say about 1906?

A. My answer would be the same.

Q. That is to say, that it would be less in 1900?

A. The capacity of the country?

Q. Yes.

A. I should say that it was; but, for accuracy, I would refer to the sheet you have.

Q. At any rate, in getting your percentages for 1900, you based them on the figures that you have given here?

A. I based them on the statistics obtained from the American Iron & Steel Association's publication.

Q. The aggregate, 1,591,000 gross tons, you have already given?

A. That is correct.

Q. Is that correct or not?

A. That is correct. That figure, 1,591,000 is my own and not the Association's.

Q. But that is the figure upon which you base your percentages?

A. Correct.

Q. I understand you to say, Mr. Roberts, that in reducing from 1903 to 1900, and correcting it so far as you did, for 1898, that you had a uniform system of percentages which you applied all through to those that you regarded as your competitors.

MR. LINDABURY: I would object to that. I do not believe you have expressed it as you intended.

MR. DICKINSON: I will repeat the question, then, in a little different shape.

By MR. DICKINSON:

Q. I understood you to say that you took the Iron & Steel Directory for 1903 as one of your bases, and in getting at your capacity for 1900 you made an allowance for the difference of capacities between those periods for the different concerns. Was that allowance uniform as applied all the way through, or did you have different percentages for different concerns?

A. There, of course, would be different percentages for different concerns where the tonnages were given in those two volumes as of each respective year. I struck about an average as between those two periods. My remembrance is that the total for January 1st, 1903, is in the neighborhood of nearly 2,000,000 tons, and for 1898 is in the neighborhood of 800,000 tons. Taking the percentage of capacity of the shops which entered the American Bridge Company, compared with the total capacity in 1898, it was about 48 per cent of the total capacity of the country. Taking it as of January 1st, 1903, it was in the neighborhood of 34 per cent. That made a difference of 14 per cent. The reason that it will appear from my figures to be for 1900 about 30 per cent of the total capacity is due to the fact that I reduced the amount of capacity, due to my own belief, to a rather smaller figure than would have been otherwise shown. In 1898 the total of the country was, roughly, I think about 48 per cent, and the American Bridge Company's shops——you have the com-

pilation of that Swank Volume of 1903. I am not sure of that. If I had that I could tell you more definitely.

Q. You can take it and tell more definitely.

A. No, I had a sheet offered in evidence the other day giving the compilations from that, the totals.

Q. Do you remember what sheet that was?

A. It is on a sheet of paper there.

MR. LINDABURY: It is the last one.

By MR. DICKINSON:

Q. Is that the sheet you mean (handing witness Defendant's Exhibit No. 3.)

A. (After examination). That is the sheet, yes.

Q. Have you finished your answer to the other question?

A. No, sir.

Q. All right, proceed.

A. This sheet will show a total percentage of the American Bridge Company as of January 1st, 1903, of practically 33 per cent. My total as of 1900 is approximately 30 per cent of the output, total capacity of the country. That 30 per cent may have a limit of variation of five per cent either way.

Q. You say that for those concerns that were shown in the Iron & Steel Directory for 1903 and 1898, in getting at their capacities, you struck an average for 1900.

A. That is correct.

Q. What do you mean by "struck an average"?

A. Struck an average as of the year 1900, being a period about half way between 1898 and January 1st, 1903.

Q. That is to say, you took the difference between 1898 and 1903, and divided it by two?

A. Approximately.

Q. You made no allowance at all for any greater increment between 1900 and 1903 than may have existed between 1898 and 1900?

A. No I thought for all purposes an average increment would answer.

Q. I wanted to get your basis for doing it.

Mr. Roberts, your report No. 2 gives for the years 1902 to 1910, inclusive, except for 1903, in which there is no separa-

tion of domestic and export, the aggregate of the bids tendered by the American Bridge Company. I suppose your knowledge as to what bids it made is purely guess?

A. Simply from reports made by the officers.

Q. Reports of others?

A. Reports of others.

Q. And you have no personal knowledge of it yourself?

A. None whatever, sir.

Q. For the year 1902 it shows that the domestic bids tendered were 1,222,484. Will you look at your paper No. 1 and state what was the total capacity of the American Bridge Company for that year?

A. What year is that, sir?

Q. 1902.

A. The American Bridge Company's capacity as of the year 1902 was 621,000 net tons.

Q. Please look at paper No. 2 and say what amounts for that year the contracts actually taken, both domestic and foreign, amounted to (handing witness Defendants' Exhibit No. 2).

A. For the year 1902 the total net tonnage of orders taken was 497,244.

Q. Do you know whether for the year 1902 the product you produced was equal to your capacity that you have stated?

A. No product ever attains to the maximum theoretical capacities as given for shops.

Q. And what you have given here on Report No. 1 is a maximum theoretical capacity?

A. Theoretical capacity, correct.

Q. So you actually sold, did you not, for 1902, 123,756 tons less than your theoretical maximum capacity?

A. The orders taken in 1902 were 497,244 net tons, and the estimated capacity for the year 1902 is on that other paper that you have.

Q. That is given at 621,000?

A. I believe so.

Q. So the difference between the two would show the amount that you sold less than your theoretical capacity for that year, would it not?

A. That we sold, yes; that is correct.

Q. In 1909, what was your maximum theoretical capacity? Please look at this (handing witness Defendants' Exhibit 1).

A. 1909 would be as of—you mean for the year 1909?

Q. Yes.

A. That is, these reports are dated January, 1909, and January, 1910.

Q. Take, then, January, 1910. For the year 1909 what was the maximum theoretical capacity?

A. Between 720,000 net tons and 691,000 net tons.

Q. Does it show both figures there?

A. As of January, 1909, it shows 720,000; as of January 1, 1910, it shows 691,800; so I averaged between those two for the period in between them.

Q. These figures, then, are figures really representing a particular day, are they?

A. Those reports are made up as of January, 1909, and January, 1910.

Q. As of that day?

A. As of that month.

Q. As of that month?

A. As of that month, I understand.

Q. What did you say the capacity would be, then?

A. That capacity would be between 720,000 and 691,800. It is not a very large difference. Call it 700,000 tons, if you please, as of the year.

Q. What were the bids that were taken for the year 1909?

A. The bids tendered for 1909 were 1,674,109 net tons.

Q. What was the excess over your theoretical maximum capacity and the bids tendered for that year?

A. The bids were largely in excess of the capacity.

Q. More than twice as much, were they not?

A. The difference between 1,674,100 and 700,000.

Q. That is a great deal over twice as much, is it not?

A. I should say it was; oh, yes.

That was a good year; one of the largest tonnage years in the history of the trade. The largest, I might say. The statements which I have given refer to work bid upon, not to orders taken.

Q. I understand.

A. But the former question, in answer to which I gave you figures, was with reference to orders taken.

Q. Which former question do you mean?

A. Just preceding this one. You asked me as to the year 1902 or 1903. I state that so as not to confuse them.

Q. I understand report No. 1 shows the theoretical maximum capacity for the particular years?

A. That is right.

Q. Then on paper No. 2 it shows the bids tendered and then the proportion of those that were taken.

A. The bids tendered and the orders taken. Now, I testified to the orders taken for the year 1902 or 1903, but for the year 1909 I testified as to the tonnage bid upon.

Q. For 1909 you testified as to the capacity?

A. The capacity and the work bid upon.

Q. And the bids offered?

A. That is right, the bids tendered.

Q. And as to the approximate difference between the two —you testified as to that?

A. I did, and not as to the previous years.

Q. But not as to bids taken?

A. Not as to orders taken.

Q. I understand that. In 1905 what was your theoretical maximum capacity?

A. I should say approximately 650,000 tons. That is, averaging between January, 1905, and January, 1906. This report gives January, 1905, 621,600, and January, 1906, 679,800.

Q. In domestic sales for that year what was the aggregate?

A. Bids tendered, or orders taken?

Q. The orders taken, domestic.

A. The orders taken, domestic, are 609,232.

Q. So you sold in domestic trade within 41,000 tons of your theoretical capacity for that year?

A. The difference between 609,000, roughly, and 650,000.

Q. Then what were your aggregate sales, domestic and foreign, for that year?

A. 638,144.

Q. That was approximately within 18,000 of your total theoretical capacity for that year, was it?

A. It is the difference as expressed by those figures.

MR. DICKINSON: I think we had better take a recess for luncheon.

(Whereupon, at 12:30 o'clock p. m., a recess was taken until 2:00 p. m.)

AFTER RECESS.

At the expiration of the recess the hearing was resumed.

PERCIVAL ROBERTS, JR.,

the witness under examination when the recess was taken, resumed the stand for further

DIRECT EXAMINATION.

By MR. DICKINSON:

Q. Mr. Roberts, independently of this paper from which you were testifying, have you any positive memory that enables you to state anything as to the percentages that the American Bridge Company got of the work which it bid on?

A. Nothing as accurate as that paper would be, no.

Q. Have you any knowledge now, or information or data, independent of that?

A. No, I would refer to those statistics.

Q. And what you have stated is based on those statistics?

A. Yes, sir.

Q. In regard to the defendants' Exhibit No. 3, you were asked whether it was made up under your direction, and you said it was. I would like you to explain what you meant by under your direction.

A. Which is Exhibit No. 3?

Q. Here it is (handing exhibit to witness).

A. (After examination) I requested Mr. Filbert, the Auditor of the United States Steel Corporation, to have a clerk add the statistics shown on pages 12 to 22 of the 1903 supplement of the American Iron & Steel Association's directory, and this paper is the result of that addition.

Q. That is what you mean when you say under your direction?

A. Yes, sir.

Q. Have you any information on that subject that would enable you to speak of percentages other than you have derived from this table?

A. I have not.

Q. Have you any recollection as to percentages independent of this table?

A. I have no accurate information whatever as to the capacities of the competitors of the American Bridge Company other than that given in the directory of the Iron & Steel Association.

Q. You know that simply because it appears there?

A. I know it because they appear in that book as the stated capacities of those various shops.

Q. And you could not go through them and give the information independently of the book, as to what those capacities are?

A. Undoubtedly, no; I could not, nor could any one else.

Mr. Dickinson: In behalf of the petitioner, defendant's exhibits numbered 1 to 11, inclusive, are excepted to as incompetent and inadmissible, on the ground that they are not original documents, are made up not by the witness Roberts in connection with whose testimony they were introduced and who identifies them, nor in his presence, but by others, and from data not identified by him and not proven to be authentic; and because they are hearsay; and all of the answers of said Roberts predicated upon any or all of the said exhibits are excepted to as incompetent and hearsay, and they are excepted to on the further ground that none of the said exhibits were reports to the said Roberts as an officer or director of the American Bridge Company in due course of business. Petitioner moves that all of said exhibits and all of said answers predicated thereon be stricken from the record.

By Mr. Dickinson:

Q. Mr. Roberts, did you know Mr. Joshua Hatfield?

A. Did I or do I?

Q. Did you and do you?

A. Yes.

Q. Was he ever an officer of the American Bridge Company?

A. He has been president of the American Bridge Company of New York for some years.

Q. What was the Amreican Bridge Company of New York?

A. The American Bridge Company of New York is the contracting company, the American Bridge Company of New Jersey being simply the manufacturer.

Q. Does the American Bridge Company of New Jersey own the stock of and control the American Bridge Company of New York?

A. They did own the stock and I think they still own it.

Q. It is a subordinate company, is it not, a working company of the other company?

A. Exactly. They were originally the entire stockholder, except the qualifying shares.

Q. Was Mr. Hatfield ever an officer or director in the American Bridge Company of New Jersey, so far as you know?

A. I think not.

Q. Is Mr. Hatfield now president of the American Bridge Company of New York?

A. He is. He may be a director of the American Bridge Company of New Jersey. Of that I am not sure.

Q. In what business was he before he went with the American Bridge Company of New York?

A. Mr. Hatfield was originally connected with the Pencoyd Iron Works, prior to 1900, and for a year or two prior to that he was the sales agent of the Pencoyd Iron Works in New York. He was my assistant at the time I was president of the American Bridge Company.

RE-CROSS-EXAMINATION.

By Mr. Lindabury:

Q. A single question. Mr. Roberts, you testified that some of the plants of the American Bridge Company and some of the plants of the independent companies engaged in making

and fabricating structural shapes and bridge material also made stacks, turntables, and other things. Can you tell me whether or not the capacities which you gave for these different plants could have been filled with bridge and structural work if they did not choose to or were not able to obtain contracts for turntables, stacks, et cetera?

A. They could. That product was common to all the shops mentioned.

Q. In other words was the machinery or were the appliances by which the stacks, turntables and so forth were made essentially or in any way different from those upon which the other work was done?

A. They were common to all classes of structural work of a certain thickness or a certain size. The same tools would be used indiscriminately either upon buildings, bridges, stacks turntables or any character of frame structure.

Q. So it would be true, would it not, to say that they had a capacity for either bridge or structural work or both in the amount stated, notwithstanding they made, to some extent, these other products?

A. That is what I mean to imply.

MR. LINDABURY: That is all.

MR. DICKINSON: That is all. We will excuse you now, Mr. Roberts.

MR. ROBERTS: Thank you.

GEORGE W. K. TAYLOR,

called as a witness in behalf of the United States, being first duly sworn, testified as follows:

DIRECT EXAMINATION.

By MR. CORNEAU:

Q. What is your name in full, please?

A. George W. K. Taylor.

Q. And your residence?

A. 890 Park Place, Brooklyn, New York.

Q. And your business?

A. Jobbers of pipe, fittings, and so forth.

Q. In that business are you connected with some firm? If so, what?

A. McMann & Taylor Company.

Q. How long have you been connected with that company?

A. 19 years.

Q. That would be back how far?

A. May 1, 1893, we started.

Q. What was your business before that time?

A. I was in the same line. I was connected with Eaton, Cole & Burnham Company, who manufactured fittings and brass goods, and were jobbers in pipe.

Q. And how long were you connected with them?

A. Nineteen years.

Q. That makes about how long altogether?

A. About 38 years altogether.

Q. In the business of McMann & Taylor, do you handle tubular products?

A. We do.

Q. And what are they? I mean those that are handled by your firm?

A. Principally pipe.

Q. All kinds of pipe?

A. Yes, sir.

Q. And did you handle similar products, or did the firm with which you were formerly connected handle similar products?

A. We did.

Q. In the course of your business experience have you become familiar with the concerns engaged in the manufacture of pipe?

A. I have.

Q. Were you, prior to 1899, familiar with the National Tube Works Company and the products sold by it?

A. I was.

Q. Will you please state, in a general way, what those products were?

A. Tubular goods; and we used to buy pipe, principally, of them.

Q. With special reference to pipe can you state, generally, what sorts of pipe they manufactured?

A. Yes; what is commonly called wrought pipe, used for conducting gas and water and steam.

Q. And in what sizes? Generally, I mean, not specifically?

A. All sizes from 1/8 of an inch up to 20 inches in diameter.

Q. Was that a large concern?

A. It was.

Q. Do you know where its plant was located?

A. At McKeesport, Pa.

Q. Can you tell us in what markets it disposed of its products, speaking, now, with reference to pipe?

A. In all markets; all over the country.

Q. In New York, for example?

A. Yes, sir.

Q. And elsewhere throughout the country?

A. Yes, sir.

Q. Let us take the Allison Manufacturing Company's Tube Mill. Were you familiar with that company?

A. Yes. I knew they used to make goods and sell them.

Q. I am speaking, now, altogether with reference to the period prior to 1899, you understand?

A. Yes. They were manufacturers of tubular goods, pipe.

Q. And where were they located?

A. At Philadelphia.

Q. And where did they sell their products?

A. I think most of their product was confined to the oil country, and practically very little of it came to New York or to this market.

Q. There was some came into this market?

A. Some.

Q. To some extent?

A. Yes.

Q. Did they sell pipe of the kind manufactured also and sold also by the National Tube Works Company?

A. Yes, sir; only it was generally conceded that the Allison pipe was something a little superior in grade, for which they charged more. The price was higher.

Q. I understand it was a particular quality, but of the same kind.

A. Yes, sir.

Q. Did you know of the American Tube & Iron Company, of Middleton, Pennsylvania?

A. I did.

Q. Am I right in stating that their plant was located at Middleton, Pennsylvania?

A. They had two plants; one was at Middleton, Pennsylvania, and the other was at Youngstown, Ohio.

Q. And did they deal in the same sort of products as the National Tube Works Company?

A. They did.

MR. SEVERANCE: What town, Youngstown, Ohio?

THE WITNESS: Yes, sir.

By MR. CORNEAU:

Q. Where were those products marketed?

A. All over.

Q. Including New York, for example?

A. Yes, sir.

Q. The Chester Pipe & Tube Company. Are you familiar with that?

A. Yes, sir.

Q. And in what products did it deal?

A. Well, a good deal on the line I described as to the Allison. They did most of their business in special oil-country goods, and very little on the general market.

Q. But they did manufacture pipe similar to that manufactured by the National that came here?

A. Some of it came here.

Q. And it was sold in the market over the country?

A. In the same markets as the other goods.

Q. Did you state where their plant was located?

A. South Chester, I believe it was, Pennsylvania.

Q. The Cohoes Tube Works, you were familiar with that concern?

A. Yes.

Q. Where was its plant located?

A. Cohoes, New York.

Q. And where were its goods marketed?

A. I think they confined most of it to the Eastern field.

Q. By the East you mean—

A. New York and New York City, Connecticut and Vermont and around through the Eastern States.

Q. Were these other concerns I have previously mentioned marketing in that vicinity also?

A. Yes, sir.

MR. SEVERANCE: You do not mean that, I think, Mr. Corneau. He stated that the Chester Company, as I understood it, and the Allison Company, chiefly market in the oil district.

MR. CORNEAU: But also in the other district?

MR. SEVERANCE: Very little, he said.

THE WITNESS: That is what I said.

MR. CORNEAU: Well, to some extent.

MR. SEVERANCE: Very good. I thought the witness might be misled by the form of your question.

By MR. CORNEAU:

Q. You may state whether or not the Cohoes Tube Works manufactured and marketed in the vicinity you have described, pipes of the kind marketed by the National Tube Works Company.

A. They did.

Q. The Delaware Iron Company. Are you familiar with that concern?

A. Yes.

Q. Where was its plant located?

A. At New Castle, Delaware.

Q. And where were its goods marketed, if you know?

A. Generally distributed, but they sought the eastern field mostly.

Q. By eastern field you mean New York, New England, and so forth?

A. Yes, sir; around tributary to its plant.

Q. And what was their product?

A. Pipe.

Q. The same kind?

A. The same kind.

Q. As sold and marketed by the other concerns, I have mentioned.

A. Yes, sir.

Q. The Ohio Tube Company, are you familiar with that concern?

A. I knew that concern was in existence. I never had anything to do with it. I do not think they ever came into this market. They kept it out in the West, but they made the goods.

Q. That is, they made pipe of the kinds we have been talking about?

A. Yes, sir.

Q. Do you know where their plant is located, or did you state?

A. I think it was in Warren.

Q. Warren, Ohio?

A. I think it was, yes, sir.

Q. They marketed their goods, if I understand the rest of your evidence properly, in part in the same territory with the National Tube Works Company?

MR. SEVERANCE: I object to that as leading. The witness has stated that he knew very little about that company and he did not know of them in this market.

MR. CORNEAU: The witness stated that the National Tube Works Company marketed their goods generally throughout the country. If you object to my putting the question in that form after that statement, I have no objection.

By MR. CORNEAU:

Q. The Oil Well Supply Company. Do you know whether or not that concern operated any tube works?

A. Yes, they operated the Continental Tube Works.

Q. And where were they located?

A. Out in Pittsburg.

Q. Do you know where their products were marketed?

A. Yes; to a great extent they confined their distribution around the oil country field, but nevertheless occasionally they went in the open market and distributed all around.

Q. Just what do you mean by the oil country field, by the way, Mr. Taylor?

A. Well, around through the Pittsburg region as it was formerly, where oil was generally developed; that got its name in common as being the oil country field; in later years it was distributed all over the country, and the oil country field would take in western Pennsylvania, southern New York, portions of Ohio and West Virginia.

Q. That is what I wanted to get at what states were embraced. Do you think of any states that were embraced in that field that you now recall?

A. Well, as I say, in later years it extended over the country to the coast, and down south, but in the early years it was around Pennsylvania, taking in those States of which I spoke.

Q. Do you know the character of pipe manufactured by the Continental Tube Works?

A. Yes.

Q. You may state whether or not that was pipe of the same character as that which was manufactured and sold, for example, by the National Tube Works Company.

A. It was.

Q. Do you know the Pennsylvania Tube Company?

A. Yes, Sir.

Q. Where was its plant located?

A. At Pittsburg.

Q. And where were its goods marketed, so far as you know?

A. Well, I consider all their product was distributed mainly through the Standard Oil Company and Crane Company. They called them their two customers, and they did most of their business through them, and there was very little of it put on the market in general.

Q. Do you know where the Crane Company was located?

A. Yes, sir; they were located in Chicago.

Q. And the Standard Oil Company, do you know where their offices were?

A. Everywhere.

Q. Do you know where their main offices are?

A. They are down at 26.

Q. In this city.

A Yes.

Q. Do you know whether or not their purchasing agent is located there?

A. It is.

Q. When you say 26, you mean 26 Broadway?

A. 26 Broadway.

Q. You said their product was marketed mostly through the Crane Company?

A. I think so. I have always understood it. In fact, I have understood it from talking with them, that they were large customers and took up most of their product, and that there was very little for general distribution.

Q. As to the remainder, do you know where that was distributed?

A. Simply they sold it on the market to anybody that came along.

Q. Did you know of the Riverside Iron Works?

A. I did.

Q. Where was their plant located?

A. Wheeling, West Virginia.

Q. Where were their goods marketed?

A. All over.

Q. Including——

A. (Interposing). Including New York.

Q. What sort of products did they deal in?

A. The same kind, in common with the others.

Q. Did you know of the Oil City Tube Company?

A. I did.

Q. Where was its plant located?

A. Oil City, Pennsylvania.

Q. And where was its product marketed?

A. Generally, but most of it near their home, and I think a good deal of that went to the Standard Oil Company.

Q. When you say "near home" what do you include?

A. In what they call the Pittsburg region. Sometimes it would come to the East, to New York, but not as a rule.

Q. Please describe what you mean by the Pittsburg region?

A. That which I described first as being called commonly the oil country region.

Q. Did I ask you whether or not the Oil City Tube Company sold pipe of simliar kind and size as that sold by the other concerns?

A. You did not ask me, but they did.

Q. Did you know the Syracuse Tube Company?

A. I did.

Q. Where was its plant located?

A. Syracuse, I think.

Q. Where were its goods sold?

A. Its goods were principally confined to boiler tubes. They did not make pipe in common with the others, but principally boiler tubes. Although it is a tubular article, it is somewhat different from what is termed as pipe.

Q. So far as you know, they did not make pipe?

A. But the same boiler tubes were made by the other concern. No, they did not make pipe, to my knowledge.

Q. Can you name some of the other concerns that made pipe?

A. Morris & Tasker. Morris, Tasker & Company was really the concern that ran the Delaware Iron Company, and they made boiler tubes, and so did Allison, Syracuse, the National Tube Company, the American Tube & Iron Company—

Q. Will you state whether or not they sold them in the same markets?

A. They did.

Q. The Western Tube Company. Were you familiar with that concern?

A. Yes.

Q. Where was its plant?

A. At Kewanee, Illinois.

Q. Can you state generally where its goods were marketed?

A. They were confined mostly to the West, and I think to a great extent west of the Mississippi River.

Q. What were its products, so far as you know?

A. Some pipe and mostly fittings and valves.

Q. Can you tell me whether or not any of the other concerns we have mentioned marketed their pipe, of similar kinds, in the same territory?

A. They did.

Q. The Pittsburg Tube Company. Were you familiar with that company?

A. I know of it.

Q. Where was its plant located?

A. In Pittsburg.

Q. Where were its products marketed, to your knowledge?

A. I do not think they came East, to speak of, at all. They kept around in the West.

Q. And by the West you mean——

A. (Interposing). Around near home, Pittsburg and west from that.

Q. Into other States than Pennsylvania?

A. Into other states, yes.

Q. State what their products were, for the most part?

A. Pipe.

Q. And of sizes similar to the sizes handled by the other concerns you have mentioned, and similar in kind?

A. Yes.

Q. Has your firm ever been a customer of the National Tube Company?

A. We have been.

Q. Do you know about the time the National Tube Company was formed?

A. That is the present company, the new company?

Q. Yes.

A. Yes, sir. About 1899, I think it was.

Q. Prior to that time, where had you been getting your tubular goods——pipe, for instance?

A. From the National Tube Company.

Q. You mean the National Tube Works Company?

A. Prior to the New Company, you mean?

Q. Yes.

A. Principally from the National Tube Works Company; the American Tube & Iron Company; Riverside Works; Cohoes Tube Works. Those were the principal ones from which we got them.

Q. Those were all concerns that were taken into the National Tube Company?

A. Yes, sir.

Q. Did you continue to do business with the National Tube Company after that?

A. We did.

Q. Did you become familiar with a plan of sale known as the contract plan?

A. I did.

Q. Was that arrangement evidenced by writings of some sort?

A. It was.

Q. Please state when you first became familiar with that arrangement?

A. Well, from recollection——

Q. I will hand you these papers (handing witness papers). I will ask you if those papers outlined the arrangement?

MR. SEVERANCE: One moment. Let us see them, please. Let us have them identified.

(The papers referred to were marked "Government Exhibit No. 92 to Government Exhibit No. 96, inclusive, and the same were examined by counsel for the defendant.)

By MR. CORNEAU:

Q. You have in your hand Exhibit marked Government Exhibit No. 92 for identification?

A. Yes.

Q. Can you tell us, now, when the arrangement outlined in that exhibit was first commenced?

A. I suppose at the time of the date.

Q. At the time of the date of that exhibit?

A. My recollection would have to be refreshed by the papers. Knowing that the papers state so and so, presumably they were carried out.

MR. SEVERANCE: The paper is dated?

THE WITNESS: Yes.

By MR. CORNEAU:

Q. You refer to that paper, and that date is November 1, 1902?

A. Yes, sir.

MR. SEVERANCE: Have you identified that by an exhibit number?

THE WITNESS: This is Exhibit No. 92 for identification.

By MR. CORNEAU:

Q. What I want to get at is: The arrangement was first made at about the time of the date of that exhibit No. 92, according to your recollection?

A. Yes.

Q. In other words the exhibit outlines the first arrangement of that kind to your knowledge?

A. Yes, sir.

Q. Referring to the percentages on the first page of this Exhibit No. 92, will you please tell me to what they refer; I mean, whether or not they refer to a list price?

MR. SEVERANCE: Does not the paper show on its face?

MR. CORNEAU: I think not.

THE WITNESS: These are discounts from a schedule list.

By MR. CORNEAU:

Q. What do you mean by schedule list?

A. An established list, universal; and these were discounts from that list.

Q. Just so that we may get the matter entirely clear in the record for us lawyers; to arrive at the price, you would pay for the pipe, you would deduct from the list price a percentage of that list price represented by this table, according to the kind of pipe? Is that it?

A. Yes, sir.

Q. Take the table of percentages on the second page; do they refer to the same list price?

A. Yes, sir.

Q. They are uniformly one-half of one per cent. less, are they not, than those on the first page?

A. Yes, sir.

Q. That Exhibit No. 92 purports to be executed by the National Tube Company, by Clifton Wharton, sales agent, and by McMann & Taylor. Was it so executed?

A. It was.

Q. This is the original document?

A. Yes, sir.

Q. I hand you the paper marked Government Exhibit No. 93. Are the explanations which you have made with respect to Government Exhibit No. 92 fully applicable to Government Exhibit No. 93?

A. Just the same.

Q. That is, likewise, the original instrument, is it?

A. Yes, sir.

Q. Were the terms of those two instruments carried out?

A. I presume so. As far as I know.

Q. So far as you were concerned, they were?

A. Yes, sir.

MR. SEVERANCE: So far as both sides are concerned?

THE WITNESS: So far as I know.

MR. CORNEAU: He said so far as he knew. That is the reason I asked him the question as to what must have been within his own knowledge.

MR. LINDABURY: It operated on the other side, did it not?

By MR. CORNEAU:

Q. I hand you now the papers marked Government's Exhibits 94 and 95. Will you please state whether or not those letters were received by you in due course of business?

A. They were.

Q. And whether or not they were acted upon by you, so far as action was to be taken on them on your part?

A. They were.

Q. Please state whether or not they outline a sales arrangement between your firm and the National Tube Company during the year 1905.

MR. SEVERANCE: I object to that. The papers themselves are the evidence of what they outline. They show what they are for. I object to the evidence.

By MR. CORNEAU:

Q. You may answer.

A. Yes.

Q. I now hand you paper marked Government's Exhibit No. 96 and I will ask you whether or not that was received by you in the regular course of business.

A. It was.

Q. After that time, or after the end of the year specified in that letter—that is, 1905, is it not?

A. Yes. As nearly as I can see here. It is not very legible.

Q. I mean the date specified in the body of the letter. I think there is a date specified there.

A. Yes; to terminate 1905.

Q. At the end of the year 1905?

A. At the end of the year 1905.

Q. Was the contract plan in force after that time?

A. No, sir.

Q. As I understand, by the arrangement outlined in Exhibits 92 and 93 your firm received a price one-half of one per cent. lower than the advertised jobbers' rates referred to on the second page.

MR. SEVERANCE: I object to that as leading. The papers show for themselves exactly what the arrangement was. It is quite unnecessary to characterize it.

MR. CORNEAU: If you will wait until I get through with my question—

MR. SEVERANCE: You have asked a question, and I have objected to it.

MR. CORNEAU: I was about to go on with my question. What I have stated there was preliminary, merely, to the rest of my question.

MR. SEVERANCE: If you will read over what you said you will find you had ended a question and had asked for an answer, and he was about to give it.

MR. CORNEAU: Perhaps as a matter of punctuation that is so, but I had not finished my question.

MR. SEVERANCE: Will you kindly read the question.

MR. CORNEAU: Will you be good enough to let me go on and finish my question?

MR. SEVERANCE: Will you read it? I want to have it in mind.

(The question was read by the stenographer as above recorded.)

By MR. CORNEAU:

Q. Now, what I want to ask, that being merely preliminary to what I had in mind—

MR. SEVERANCE: I object to counsel's understanding.

MR. CORNEAU: I have not stated what I understand.

MR. SEVERANCE: That is the way you started it.

By MR. CORNEAU:

Q. What I desire to ask is in what manner that difference in price was given to you, whether it was by means of rebate, drawback, or in the straight billing of the goods?

A. My recollection is that according to these two colored sheets it was a straight billing.

MR. SEVERANCE: It is all provided in the contract, is it?

THE WITNESS: The contract was literally carried out.

MR. SEVERANCE: Then I object to it.

MR. CORNEAU: That part of it is not provided in the contract, Mr. Severance, I think; that is, specifically.

THE WITNESS: That is how it shaped up?

By MR. CORNEAU:

Q. Yes.

A. It simply stated there what the price is, but I think it is straight billing.

MR. SEVERANCE: It does not make any difference.

By MR. CORNEAU:

Q. And with reference to the arrangements outlined in Exhibits 94 and 95, was there a difference in that respect?

A. Yes, that came back in the form of a check.

Q. If I understood you correctly, you first paid—

A. First paid the real value; then a check came back after to represent the bonus, just according to the statement of the letters.

MR. CORNEAU: I now offer in evidence the papers marked Government Exhibits 92 to 96 inclusive.

MR. SEVERANCE: And they are severally objected to as irrelevant and immaterial.

(The papers, so identified, were thereupon offered in evidence, and marked "Government's Exhibits 92 to 96, inclusive.")

CROSS EXAMINATION.

By MR. SEVERANCE:

Q. Mr. Taylor, the counsel has asked you with reference to these different companies that were taken over by the National Tube Company, and you testified with reference to their business. I believe you said that certain of those companies were the only companies from which your house was purchasing goods at the time of the organization of the National Tube Company. Did I correctly understand you?

A. I did not say that; I said principally.

Q. Principally. That is what I wanted to get at. From what manufacturers of tubular goods were you buying at that time other than the ones you mentioned?

A. We did buy some from the Cumberland Nail & Iron Company, down at Philadelphia or Camden—the office in Philadelphia, I believe; and outside of that we did not buy regularly from any of them. Once in a while we might pick up some particular lot.

Q. What were the Cumberland Nail Company manufacturing?

A. They manufactured a little lot of pipe.

Q. Did what?

A. A small lot of pipe; they were not heavy manufacturers.

Q. Were they of general sizes?

A. Up to two inch.

Q. You said that at times you bought from other houses. Can you recall what they were?

A. I do not think I said that.

Q. I beg your pardon.

(To the stenographer: Will you read what the witness said a moment ago?

(The stenographer read the answer referred to, as follows:)

"We did buy some from the Cumberland Nail & Iron Company, down at Philadelphia or Camden,—the office in Philadelphia, I believe; and outside of that we did not buy regularly from any of them. Once in a while we might pick up some particular lot."

By Mr. Severance:

Q. That is exactly what I thought you said. Why do you now say you did not say that?

A. That is so small. I remember buying one lot from the Monongahela Tube Company. At one time a man came into my office and sold me one little lot.

Q. Where were they located?

A. In Pittsburg.

Q. Manufacturing pipe?

A. Yes, sir.

Q. And can you think of any other concerns from which at times you bought in sporadic cases?

A. I do not recall any, because our purchases were confined to those I mentioned in the first place.

Q. And, as I understand it, after the National Tube Company was organized you continued to buy from it, and have purchased from it all the time since?

A. Yes, sir.

Q. And you are still quite a large customer of the National Tube Company, are you not?

A. Well, not right lately, but then I have been right along.

Q. You have been buying from them right along?

A. Yes, sir.

Q. Were you, in 1899, familiar with the concern called A. M. Byers Company?

A. I was.

Q. What was their business?

A. Making pipe.

Q. Where were they located?

A. Pittsburg.

Q. That plant was not acquired by the National Tube Company, was it?

MR. CORNEAU: Objected to as not cross examination?

A. No, sir.

By MR. SEVERANCE:

Q. And that company was not acquired by the National Tube Company, was it?

MR. CORNEAU: Objected to as not cross examination?

A. No, sir.

By MR. SEVERANCE:

Q. And that company continued in business after the National Tube Company was organized, did it not?

A. It did and is running today.

MR. CORNEAU: One moment.

MR. SEVERANCE: You might reserve a general obejction.

MR. CORNEAU: That is what I was going to do. I was going to ask if I might not reserve a general obejction to this line as not cross examination.

MR. SEVERANCE: Your objection is that it is not cross examination.

MR. CORNEAU: Yes.

By MR. SEVERANCE:

Q. You say they are running today?

A. Yes.

Q. Was that a rather large concern?

A. Yes, sir.

Q. It had seven furnaces, had it not?

A. I don't know.

Q. You do not know how many furnaces they had?

A. I don't know how many furnaces they had.

Q. You do not know their tonnage?

A. No.

Q. But they were well known in the trade as a large house, were they not?

A. Yes, sir.

Q. And were selling their product all over the country in competition with the National Tube Works and some of these other companies?

A. That all depends on how you put the word competition. They always had a higher priced article and it was not on the general market in general competition with others, on account of the higher price.

Q. You have stated that some of those taken in by the National Tube Company had a higher price too?

A. Yes.

Q. And the A. M. Byers Company had a fine article?

A. Yes, sir and charged more for it.;

Q. They charged more for it, and all the agents of Byers endeavored to induce the people who were in the market as customers to buy their product, did they not?

A. Yes, sir.

Q. And the National Tube Works endeavored to get people to buy their product at a cheaper price?

A. Yes.

Q. The same people?

A. Yes sir.

Q. If one company trying to sell goods to a man and another company trying to sell goods to the same man at the same time, makes competition, then they were in competition, although the prices were different.

A. That is right, yes, sir.

Q. That is true is it not?

A. Yes.

Q. Byers claimed that his goods were better than the National Tube Work's goods, did he not?

A. Yes.

Q. And charged more for them on that account?

A. Yes, sir.

Q. You still find A. M. Byers Company in the market, do you not?

A. Pretty well lately.

Q. Do you buy from them?

A. No.

Q. Have you bought from them at any time?

A. No; we cannot.

Q. Cannot buy from them?

A. No.

Q. Because of the price?

A. Why, their policy is such that we cannot operate with them. They go direct to the people to whom we want to sell.

Q. And they are active people in the market, are they?

A. They have been within the last year or few months. They have got very active.

Q. Where did you say they are located—at Pittsburg?

A. Pittsburg.

Q. Do they make all sizes of pipe?

A. I think now they run from an eighth or a quarter up to twelve inch.

Q. Large pipe?

A. Up to twelve inch.

Q. Did you know in 1899 a concern called the West Jersey Tube Works of Philadelphia?

A. Only by general knowledge; I never had anything to do with them; I have heard of them.

Q. You have heard of them as in the market manufacturing and selling tubes?

A. I have heard of them, but I did not have anything to do with them.

Q. Is not that the same company as the Cumberland Nail & Iron Company?

A. I do not know.

Q. You knew them as the Cumberland Nail & Iron Company?

A. Yes, sir.

MR. CORNEAU: Do you think it is the same company, Mr. Severance, may I ask, or do you know?

MR. SEVERANCE: I understand it is, but I do not know.

THE WITNESS: Then they changed the name. At the time we were buying from them they were the Cumberland Nail & Iron Company.

By Mr. Severance:

Q. Here is a fearful and wonderful name, the Conshohocken Tube Works of Conshohocken, Pennsylvania. Did you know of them?

A. I did.

Q. Were they manufacturing tubular goods and selling them in the market?

A. Yes.

Q. Selling them in competition with these other companies?

A. Yes, sir.

Q. By these other companies I mean the companies that you said went into the National Tube Company. You have mentioned the Monongahela Tube Company. That is located at Wilson, Pennsylvania, is it not?

A. I do not know the exact place. There are a great many towns around near Pittsburg and they simply refer to them all as Pittsburg. It is in the Pittsburg district.

Q. You stated that you bought from them?

A. One lot, yes.

Q. Do you know the Reading Iron Company of Reading, Pennsylvania?

A. Yes.

Q. That is a large concern?

A. Yes.

Q. And was that in operation at the time the National Tube Company was formed?

A. It was.

Q. And sold tubes?

A. Yes.

Q. It was engaged in making and selling tubes?

A. Yes.

Q. In the same market?

A. Yes, sir.

Q. And pretty well over the country?

A. Yes.

Q. Oil country products, as well as the general market products that are sold here?

A. Yes.

Q. And that concern was an active competitor of the companies that went into the National Tube Company, was it not?

A. No, sir, not necessarily.

Q. Why not?

A. Because the Reading people are classified as making only genuine wrought iron pipe, and they have never made steel pipe, and therefore they are counted in another class altogether.

Q. Is not wrought iron pipe used for the same purpose as the steel pipe?

A. The same purpose, but a different article on account of the price; on that account it was not an article which was in common competition.

Q. Wait a minute. You seem to think if two people ask different prices for an article they are not in competition. See if we can figure this out. Was the pipe made by the Reading Iron Company used for the same purpose as that for which the pipe made by the National Tube Company was used?

A. Used for the same purpose, but the buyer does not look at it in the same way—

Q. Just answer my question. The pipe was used for the same purpose, was it?

A. It can be, yes.

Q. And it was used for similar purposes?

A. Yes.

Q. One man using wrought iron pipe and the other one using steel pipe?

A. Yes.

Q. Were the agents of the Reading Iron Company trying to sell that pipe to consumers?

A. They were.

Q. And were the agents of the National Tube Works trying to sell their steel pipe to the same consumer?

A. Yes.

Q. They were each trying to sell their pipe and one or the other was successful in making the sale. That is right, is it not?

A. Yes, sir.

Q. And if a man, because of some peculiarity in the market, a shortage of some kind, could not take one, he would take

the other, would he not, whatever his personal preference might be?

A. Possibly he might, and possibly he might not.

Q. I say he might?

A. He might, but in common business parlance, he would not be apt to do it.

Q. The National Tube Company also made wrought iron?

A. In the early part of its career, but afterwards it discontinued it.

Q. In 1899 were they not making both?

A. They were making both, but ran mostly steel pipe.

Q. But they were making both?

A. Yes.

Q. And they sold that wrought iron pipe in the open market, the same market in which the Reading Iron Company were selling theirs?

A. Yes, sir.

Q. They sold their steel pipe in the same market?

A. That is right.

Q. And they were trying to sell the same people their pipe at the same time?

A. Yes; but there is a distinction between the wrought pipe and the steel.

Q. If you will kindly answer my questions we will get along all right. Do you know a concern known as Spang, Chalfant & Co., of Pittsburg?

A. Yes.

Q. Is it a large concern?

A. Yes.

Q. And is it still running?

A. Yes.

Q. It was running in 1899, was it?

A. Yes.

Q. What was their business?

A. Making pipes and tubes, or tubular goods.

Q. Was that company making steel or wrought iron pipe?

A. First off, they made wrought iron; then they changed and made steel. They are making steel now. They are making wrought iron, too.

Q. They made steel in 1899?

A. I think so, yes.

Q. And was that company a competitor in the open market with the National Tube Works Company and the other concerns that went into the National Tube Company?

A. It was.

Q. An active competitor pretty well over the country, was it not?

A. Yes.

Q. And in competition in the markets in what we call the oil country markets, east and west?

A. Yes.

Q. West of the Mississippi River?

A. Yes.

Q. And in that territory?

A. Yes.

Q. Do you know a concern called the Tyler Tube & Pipe Company of Washington, Pennsylvania?

A. Yes, sir.

Q. Were they engaged in the manufacture of pipe at that time?

A. I do not think so. I think they only made boiler tubes.

Q. They made boiler tubes; nothing but boiler tubes?

A. I do not think they made anything else.

Q. They were a pretty large producer of boiler tubes?

A. Yes.

Q. Were they selling tubular pipes in the markets in competition with some of these companies that went into the National Tube Company?

A. As a rule, I do not think so. I think they made most of the tubes for the Singer Company, or Babcock & Wilcox. I do not think they had much to put on the market for general sales.

Q. Were they like some of the others? For instance you said that some of those that went into the Tube Company sold to the Standard Oil Company, but if they had an excess of product it went into the open market?

A. Yes.

Q. And the same would be true of the Tyler Company?

A. Yes.

Q. The Babcock and Wilcox is a very large house, and manufactures boilers, does it not?

A. Yes.

Q. Probably the largest in the country?

A. Yes, sir.

Q. And their boiler tubes were not different; that is their boiler tubes could well have been made by one of these other companies that was manufacturing boiler tubes?

A. Yes, certainly.

Q. It is merely a question of which one could get the business, and the Tyler Company was successful in getting the business. Is that true? I mean getting the business from Babcock & Wilcox.

A. Yes.

Q. Was it a somewhat unusual thing for large concerns like Babcock & Wilcox to make a contract for their whole requirements with some one company, if one company could furnish them?

A. I have always understood so.

Q. That is not an unusual thing in the trade, is it?

A. No, sir.

Q. Contracts from year to year for a supply, would be made; that is, a large manufacturer would make a contract with material from some one house.

A. It is not general.

Q. It is not general, but it is not particularly unusual, is it?

A. Oh, no.

Q. Did the Crane Company also make pipe to some extent?

A. They did.

Q. Wrought iron or steel pipe?

A. I think they first made wrought iron, and then I think they changed it to steel. I do not think they made the two at the same time.

Q. Did they make butt welded pipes?

A. I think that is all they did make.

Q. Do you know something about companies that have gone into the tube business since 1899?

A. I think so.

MR. CORNEAU: That is under the same objection.
MR. SEVERANCE: Yes.

By MR. SEVERANCE:

Q. I will ask you, Mr. Taylor, about the Harrisburg Pipe and Pipe Bending Company of Harrisburg, Pennsylvania. Do you know of that?

A. Yes, sir.

Q. They have been in business since 1900?

A. About that time, I should say.

Q. What is their product?

A. Pipe.

Q. And their pipe is sold in the market in competition with the pipe made by the National Tube Company, is it not?

A. It is.

Q. The Monongahela Tube Company has an added capacity, has it not, since 1899?

A. My idea is that they have changed altogether and do not make pipe now, but only boiler tube.

Q. The Monongahela Company?

A. I think so.

Q. They have enlarged their capacity, whatever it is?

A. Yes.

Q. Boiler tubes are a kind of pipe, are they not?

A. Yes.

Q. They are small and used only in the manufacture of boilers, but they are pipe?

A. Yes.

Q. The Monongahela Company has grown a good deal, has it not?

A. I think so.

Q. You know the South Chester Tube Company?

A. I do.

Q. That concern manufactures all kinds of oil country goods and pipe, does it not?

A. Yes.

Q. And has done so since 1900?

A. I think so.

Q. Have you ever visited the plant of Sprang, Chalfant & Company?

A. I have not been at their plant. I have been to their office many times.

Q. You know from your knowledge of the tube business in this country, do you not, that that concern has very largely increased its capacity since 1900?

A. It has.

Q. Are you able to tell the number of furnaces they now have?

A. No.

Q. Do you know Worth Brothers, of Coatesville, Pennsylvania?

A. Only by hearsay. I have not had business with them.

Q. You know it as a concern in the market selling boiler tubes, do you not?

A. Yes; right along.

Q. And they are doing that in competition with the National Tube Company, are they not?

A. Yes, sir.

Q. That concern has grown very largely, has it not, in the last few years?

A. I do not know much about that particular concern.

Q. You do not know that they have grown from one furnace up to six?

A. No.

Q. Do you know of the Aermotor Company, of Chicago, at any time manufacturing pipe?

A. No.

Q. Do you know the Alabama Tube & Iron Company, of Helena, Alabama?

A. No.

Q. Do you know the La Belle Company, Steubenville, Ohio?

A. Yes, sir.

Q. Is that a large concern in the pipe business?

A. Yes.

Q. And they are selling their products all over the country, are they not?

A. Yes, sir.

Q. In competition with the National Tube Company?

A. Yes.

Q. They also manufacture raw materials, do they not, right through to the finished product?

A. Yes.

Q. It is a strong integrated concern?

A. Yes.

Q. Do you know the Longmead Company, of Conshohocken?

MR. CORNEAU: That is the same as the other company of Conshohocken, I think.

MR. SEVERANCE: I think there are two plants.

THE WITNESS: Yes, I know them.

By MR. SEVERANCE:

Q. They are still doing business, are they not?

A. No; I think they have gone out of business or stopped.

Q. When?

A. In the last year. The last part of last year, I think.

Q. They were running in 1911, were they not?

A. Yes.

Q. You do not think they are running now?

A. No, I do not think they are running now.

Q. Do you know the Mark Manufacturing Company, of Evanston, Illinois?

MR. CORNEAU: That has not been running for ten years.

By MR. SEVERANCE:

Q. I understand that. But I am asking him if he knows of it.

A. That is at Zanesville, is it not?

Q. The Mark Manufacturing Company of Evanston, Illinois. Did they not, in 1901, manufacture butt welded tube and acquire the boiler plant at Zanesville?

A. Yes.

Q. And they are still running and doing business?

A. Yes, sir.

Q. And they are doing business in competition with the National Tube Company all over the country?

A. Yes.

Q. And they have been since 1901?

A. Yes. I think that is about the time they took over the Eastern Tube Company.

Q. Do you know the Youngstown Tube Company, of Youngstown, Ohio?

A. I do.

Q. They manufacture all kinds of tubular products, do they not?

A. Very largely.

Q. It is a large concern?

A. Yes.

Q. And does business all over the country in competition with the National Tube Company?

A. Yes, sir.

Q. They manufacture everything from the raw material to the finished product, do they not, and produce both iron and steel pipe?

A. Yes.

Q. They are very strong and active, very strong financially, are they not?

A. They are a large, strong, and progressive concern.

Q. Do you know a concern called the Susquehanna Iron & Steel Company, of Columbia, Pennsylvania?

A. I do not know much about them.

Q. Established in 1902. You know of them in the trade, do you not?

A. I know of them, but that is all.

Q. You have not bought from them?

A. No, sir.

Q. But you know of them as manufacturers; they are recognized in the trade in the eastern markets, are they not?

A. I do not know that.

Q. Do you know the Parksburg Iron Company, of Parksburg, Pennsylvania?

A. I do not.

Q. Do you know the Central Tube Company?

A. Yes, sir.

Q. Where are they located?

A. In the Pittsburg region.

Q. They manufacture tubular goods?

A. Yes, sir.

Q. And sell them all over the country in the market against the National Tube Company?

A. Yes, sir.

Q. Do you know the Pittsburg Tube Company, of Monaca, Pennsylvania?

A. Yes.

Q. Are they also a competitor of the National Tube Company in the manufacture of pipe?

A. I believe so.

Q. And selling it all around, all over the country?

A. I understand so.

Q. Do you know the Keystone Tube Company of Connellsville, Pennsylvania?

A. No.

Q. Do you know of the Republic Iron & Steel Company, of Youngstown, Ohio?

A. Yes, sir.

Q. That is a large concern, is it not?

A. It is.

Q. And they have everything from the raw material up to the finished product?

A. They have.

Q. And are manufacturing tubular goods and selling them in competition with the National Tube Comapny on a large scale, are they not?

A. They are.

Q. And that competition extends all over the country?

A. Yes.

Q. And has for two or three years past?

A. Yes, sir.

Q. Do you know the Wheeling Steel & Iron Company?

A. Very well.

Q. Of Wheeling, West Virginia?

A. Yes, sir.

Q. How long has that been in operation?

A. That started in, I should say, shortly after you started the National Tube Company.

Q. That is a strong concern, is it not?

A. Very strong.

Q. And doing a large business in all classes of tubular goods?

A. Yes, sir.

Q. All over the country?

A. Yes.

Q. In competition with the National Tube Company?

A. Yes.

Q. Do you know the Allegheny Steel Company?

A. Yes, sir.

Q. What is their business?

A. The same line.

Q. How long have they been running?

A. I do not know exactly, but early in 1900 and something.

Q. Early in the nineteen hundreds?

A. That is, a few years ago.

Q. And they are active in all branches of the business, are they not?

A. Yes, sir. The Allegheny Company make boiler tubes particularly, rather than pipe.

Q. You have testified that you are familiar with all these other concerns to a certain extent, the concerns that are doing business in the market. I will ask you if you do not know, from your knowledge of the market and the trade, after your long experience, that at the present time the National Tube Company is only selling about 38 per cent, manufacturing and selling about 38 per cent of the tubes in this country, as against 62 per cent manufactured and sold by their competitors?

A. I have no way of knowing that——

MR. CORNEAU: That is objected to, first on the ground that it is not proper cross examination, and second on the ground that the witness has not shown sufficient detailed knowledge to undertake to answer——

MR. SEVERANCE: You might go further and say the witness shows he has no knowledge, detailed or otherwise, as he says he has no way of knowing.

MR. CORNEAU: I was trying to get my objection in before his answer came.

By MR. SEVERANCE:

Q. There was one concern I forgot to ask you about. That is the Cohoes Rolling Mill. Do you know know about that?

A. I do.

Q. Are they engaged in the manufacture of tubular products?

A. Yes.

Q. And selling them in the market as a competitor of the National Tube Company?

A. They are.

Q. Have you sufficient knowledge of the trade and of the extent of the output of these companies and the market to say whether or not, in your opinion, the companies that you have treated as being competitors of the National Tube Company are now manufacturing and selling the majority, more than half, of the tubes sold in the country? You said you could not give the figures—38 and 62, but could you state whether, in your opinion, the outside concerns are selling the majority of the tubular products?

A. I think they are.

Q. That was not the case, was it, to the best of your opinion, in 1899, when the National Tube Company was organized?

A. No, sir; it was not.

Q. That is, the outside concerns have increased their percentage of output?

A. Very much.

Q. Very much?

A. Yes, sir.

Q. And the concerns that were in business at that time, many of them have grown much larger, and new plants have been established that were not in existence at the time the National Tube Company was organized?

A. That is right.

Q. And there is general, open competition now in these products, is there, between the National Tube Company and all these concerns that you have mentioned?

A. There is.

MR. SEVERANCE: That is all.

REDIRECT EXAMINATION.

By Mr. Corneau:

Q. Just one or two questions more, Mr. Taylor.

This Cohoes Rolling Mill about which Mr. Severance just asked you is a different concern from the Cohoes Tube Company, I think it was, that was mentioned on your direct examination?

A. Yes, sir. It is a new concern, started since that time.

Q. Do you know about when it was started?

A. I should say in 1901, 1902, or 1903, in the early part, there.

Q. Do you know about when the Allegheny Tube Company was started?

A. I do not, except in a general way, that it was some few years ago. Then, they have enlarged.

Q. Would you say it was between 1899 and—

A. (Interrupting) I could not say exactly, but I think it was about 1902 or 1903. There may have been some changes by which there was some reconstruction of some old concern. I am not familiar with that, but the present Allegheny Tube Company, I think, was taken hold of here only a few years ago.

Q. Do you know about when the Republic Iron & Steel Company entered the tube business?

A. Two or three years ago.

Q. The Pittsburg Tube Company. That seems to be a different Pittsburg Tube Company from the one which was mentioned on your direct examination, as I understand?

A. My recollection is that that was started up, using the old name, after the old name passed out; someone else started and reconstructed another one.

Q. About when was that?

A. I should think early in the century; that is, in 1902 or 1903, or something like that.

Q. How about the Central Tube Company? When was that started, if you know?

A. Only two or three years ago.

Q. How about the Youngstown Sheet & Tube Company?

A. That was in 1902.

Q. And the Mark Manufacturing Company? You gave the date of that as 1901?

A. He gave the date, there.

Q. The LaBelle Iron Works; do you know when that was started?

A. They were started before the formation of the Steel Company, and—

Q. Before the formation of the Steel Company, or the National Tube Company?

A. I think it was about the time—

Q. Of the formation of the National Tube Company?

A. Yes. They started making pipe then. They were in business before that.

Q. I was speaking only with respect to pipe or tubing, particularly.

Q. Do you know when Worth Brothers started?

A. No, sir; I do not.

Q. About when?

A. I should say probably five or six years ago.

Q. Then, of this list concerning which Mr. Severance questioned you, it is true, is it not, that nearly all were organized between the time of the formation of the National Tube Company—that is, they were either organized or went into the tube business, between that time and the beginning of the year 1903?

A. Will you put that question again, please?

Q. I say it is true, is it not, that nearly all of this list of new companies concerning which Mr. Severance asked you were organized or went into the tube business, as the case might have been, between 1899 and about the beginning of the year 1903?

A. No. I think that several of them were since 1903.

Q. Several of them?

A. The Youngstown Company commenced in 1902; the Central Tube and Republic have been since, not prior to 1903.

Q. I said most of them.

Let us go over them, then. The Harrisburg Pipe?

A. I think that was prior.

Q. The South Chester Tube Company?

A. That was, I think.

Q. Spang, Chalfont & Company, they increased their capacity?

A. Yes, they increased their capacity.

Q. About when was that?

A. They have done it two or three times.

Q. When was the first time, if you recall?

A. I think just about 1900.

Q. As to Worth Brothers, you did not recall?

A. No.

Q. And the LaBelle Iron Works was about the same time?

A. Around 1899 or 1900.

Q. The Mark Manufacturing Company was 1901; and the Youngstown Sheet & Tube Company you said about 1902?

A. They started in 1902.

Q. The Susquehanna Iron & Steel Company?

A. I do not know the date of that.

Q. Perhaps I got that from Mr. Severance. I have it marked here on my memorandum as 1900.

MR. SEVERANCE: Which was that?

MR. CORNEAU: The Susquehanna Iron & Steel Company.

MR. SEVERANCE: I cannot testify, of course.

MR. CORNEAU: I say perhaps I got that from something you said.

MR. SEVERANCE: I might have asked the question.

MR. CORNEAU: I have 1902 noted here opposite the name of that company.

By MR. CORNEAU:

Q. You did not recall about the Central Tube Company?

A. Yes. That was only two or three years ago.

Q. That is one that has gone into this business two or three years ago?

A. Yes.

Q. And the Pittsburg Tube Company, you said, went into the business somewhere from 1900 to 1903, according to your recollection, as I understood it?

A. I think so.

Q. The Republic Iron & Steel Company, you said——

A. They have only commenced making pipe two or three years ago.

Q. That makes two. The Wheeling Steel & Iron Company, as I recall your testimony, you said shortly after the formation of the National Tube Company?

A. After the formation of the National Tube Company.

Q. And the Allegheny Tube Company you said about 1902 or 1903?

A. I think so.

Q. And the Cohoes Rolling Mill Company about the same time?

A. About the same time.

Q. So, with the exception of about two of that entire list, according to your best recollection, they entered the tube business about between the time of the formation of the National Tube Company and the year 1903. That is correct, is it not?

A. Yes, sir.

Q. And it was with the beginning of the year 1903 that the contract plan was put in force?

A. Yes.

Q. And under that plan you did not get their best price unless you took eighty to one hundred per cent. of your purchases from the National Tube Company, did you?

MR. SEVERANCE: I object. The contracts speak for themselves. The witness has identified them, and you have put them in evidence.

THE WITNESS: Do you want me to answer to anything?

MR. SEVERANCE: That is all.

MR. CORNEAU: That is all.

MR. DICKINSON: We had another witness to be here, but he has not come, so we will discontinue now.

The counsel are going to take up the question of documentary evidence and its production under subpœna duces tecum, and will be engaged on that for some days. We do not know now how long it will take, and we will give notice when we want to resume.

(Whereupon, at 3:35 o'clock p. m., the hearing was adjourned sine die.)

FIFTEENTH DAY.

ROOM, 720 CUSTOM HOUSE,
NEW YORK, N. Y.,

Monday, June 10, 1912.

The hearing was resumed at 10:15 o'clock a. m., before SPECIAL EXAMINER HENRY P. BROWN.

Appearances the same as heretofore noted.

OAKLEIGH THORNE,

called as a witness on behalf of the United States, having been first duly sworn, testified as follows:

DIRECT EXAMINATION,

By MR. DICKINSON:

Q. Mr. Thorne, what is your age?
A. Forty-six.
Q. Where do you reside?
A. Millbrook, Duchess County, New York.
Q. In what business are you now engaged?
A. None.
Q. How long have you been out of business?
A. Since February, 1912.
Q. Prior to that time and for some years previous thereto, in what business were you engaged?
A. Banking.
Q. With what institution and in what capacity were you associated?
A. When?
Q. Prior to February, 1912.
A. The last position was president of the Trust Company of America.
Q. How long had you held that position?
A. Four or five years.
Q. Next preceding last February?

A. Yes, sir.

MR. LINDABURY: What was the answer as to the time?

The WITNESS: Four or five years; I do not remember exactly the dates.

By MR. DICKINSON:

Q. Do you remember about what time the Trust Company of America was organized?

A. No, sir; I do not.

Q. Were you connected with any banking institution before you went with the Trust Company?

A. Yes, sir.

Q. What was that?

A. First with the International Banking & Trust Company, then with the North American Trust Company, which was merged into the Trust Company of America.

Q. What position did you hold with the International Banking and Trust Company?

A. President.

Q. What was the capital of the Trust Company of America in 1907?

A. Two million dollars.

Q. Was that or was it not its original capital after its consolidation?

A. It was.

Q. Where was the office of the Trust Company of America?

A. 135 Broadway, and it was moved from there to 37 Wall Street.

Q. It was on Broadway in 1907, was it?

A. No, sir; it was in 37 Wall Street.

Q. What kind of business was being conducted in 1907 and prior thereto by the Trust Company of America?

A. The ordinary trust company business.

Q. Banking business?

A. The ordinary business done by trust companies, including banking, yes, sir.

Q. You received deposits and held them?

A. Yes, sir.

Q. Under what law was it organized?

A. Laws of the State of New York.

Q. When you went with the trust company, Mr. Thorne, what did the assets of the company amount to, at the time of the consolidation?

A. I do not remember, but I have testified to that, and if you will allow me to look, I can tell you.

MR. LINDABURY What was that question?

By MR. DICKINSON:

Q. At the time of the last consolidation, I will put the question, state whether or not it was approximately $50,000,000?

A. I believe it was.

Q. Do you recollect now that that was about the amount?

A. The actual amount was testified to, and I have that here; that was taken from the books of the company.

Q. Have you a memorandum taken from the books of the company?

A. I have a copy of a memorandum taken from the books of the company.

Q. Did you take it?

A. No, sir.

Q. Was it made under your direction?

A. It was.

Q. Look at that.

MR. LINDABURY: Suggest a figure to him. There is no dispute about it.

MR. DICKINSON: I suggested fifty million dollars. That is what he testified before.

The WITNESS: It was approximately fifty million dollars.

By MR. DICKINSON:

Q. What were the assets of the company just before the panic of 1907, approximately?

A. Sixty-seven million.

Q. It was seventy-four million?

A. Seventy-four million—whatever I testified to there are the correct figures, Mr. Dickinson, because they were taken from the books and made up by the auditors of the company.

Q. At that time?

A. At that time.

Q. That was seventy-four million?

A. Well, whatever it says there is correct.

Q. You would say that was the correct amount?

A. Yes, sir.

Q. Did the Trust Company of America have any identity or alliance with any other banking or financial institution at that time?

A. No.

Q. Were you yourself connected with any other financial institution or bank at that time in the City of New York?

A. Only as a director.

Q. Of what concern were you a director?

A. Night and Day Bank.

Q. That was in the City of New York, was it?

A. Yes, sir; since the Harriman National.

Q. Were you or not a member of the syndicate that purchased a majority of the stock of the Tennessee Coal, Iron & Railroad Company prior to 1907?

A. I was.

Q. To what extent did you become interested at that time?

A. 12,500 shares.

Q. Did you continue to hold that or dispose of part of it?

A. No; I disposed of seven thousand shares.

Q. At the time it was sold to the United States Steel Corporation, how much did you own?

A. I held approximately 5,500 shares.

Q. Did you or did you not own that in your own right, or was it the property of the Trust Company of America?

A. No; it was in my own right, personally.

Q. Where was the stock at that time?

A. It was in a safe deposit company box.

Q. Was it paid for?

A. It was.

Q. How many were in that original syndicate, do you recall?

A. I do not.

Q. Do you recall whether it was ten or not?

A. Well, the number was changed; I do not recall the number.

Q. Did the Trust Company of America, at the time of the panic of 1907, in its own right own any stock of the Tennessee Coal, Iron & Railroad Company?

A. No, sir.

Q. Had it ever owned any?

A. No, sir.

Q. State whether or not at that time it had any loans made on which Tennessee Coal, Iron & Railroad stock was pledged as collateral, and, if so, the extent of the loans.

A. It had loans in total amounting to $472,000 or $482,000. The figures are there.

Q. Were those loans supported or not by any other stock than the Tennessee Coal, Iron & Railroad Company's stock?

A. No, sir.

Q. What was the financial standing of the parties to whom those loans were made?

A. They were all good.

Q. State whether or not they were good independently of the stock, or whether you looked to the stock alone as security.

A. They were both good.

Q. They were both good; that is to say you regarded the stock as good collateral as security for the loan?

A. Yes.

Q. And you regarded the parties themselves as good, independent of the stock?

A. Yes.

Q. Were those loans existing and outstanding at the time of this panic?

A. They were.

Q. When were they paid—during or after the panic?

A. They were paid, or some of them were paid, during the panic and some of them were paid afterwards.

Q. Were they time loans or call loans?

A. Some of them were time loans and some demand loans. The time loans were all paid at maturity.

Q. I will ask you whether or not the fact of the existence of these loans and of their being secured by the Tenessee Coal

& Iron Company in any way embarrassed your institution at that time?

A. No, sir.

Q. You stated, Mr. Thorne, that you were the owner of about 5,500 shares of Tennessee Coal & Iron Company?

A. Yes.

Q. Did you have any part whatever in the negotiations for the sale of the stock of the Tennessee Coal & Iron Company to the United States Steel Corporation?

A. No, sir.

Q. What was the first information that you got that such a sale was pending or in the course of negotiation?

A. It was on Sunday morning. Mr. Ledyard told me.

Q. What Sunday morning was that? Was that November 3?

A. It was early in November.

MR. LINDABURY: It was the 2nd or 3rd of November.

THE WITNESS: The 2nd or 3rd, yes.

By MR. DICKINSON:

Q. He told you in substance what?

A. That negotiations were on for the sale of the Tennessee Coal & Iron Company and he hoped they would go through.

MR. LINDABURY: I did not get the latter part of the answer.

THE WITNESS: And that he hoped he would be able to conclude them.

MR. LINDABURY: Are you giving that as the whole conversation?

MR. DICKINSON: The substance of it. I will call for the whole of it, if you want it.

MR. LINDABURY: I would like to know whether the witness intended it as a statement of the whole conversation?

By MR. DICKINSON:

Q. Well, I will ask you this. State, as far as you recall, exactly what took place between you and Mr. Ledyard on that occasion?

A. I met Mr. Ledyard on the corner of Fifth Avenue and,

approximately, 40th Street, and he told me that these negotiations were on, and I asked him the basis, and he told me that they were still negotiating, and that he hoped a satisfactory basis would be reached and the trade consummated. That was practically the whole of it.

Q. What was your next information on the subject, the next information you got?

A. That I do not remember, Mr. Dickinson.

Q. State whether or not when you got your next information the trade had been concluded?

A. I believe it had been. I believe that the next reliable information I got was at Mr. Morgan's library, where it was stated that the trade had been concluded. Of course I heard many rumors in the meantime.

Q. You heard rumors, you say. What day was that? Sunday was the 3rd and Monday the 4th.

A. It must have been the 5th or 6th. The 6th, I should say.

Q. Do you recall the day that the Knickerbocker Trust Company closed?

A. I recall the day. You mean the date, do you not?

Q. Yes, the date.

A. The 22nd.

Q. The 22nd of October?

A. Yes.

Q. At that time what were the assets, in round numbers, of your trust company?

A. That is stated right here. (Referring to Volume of the hearings before the Stanley Committee.) $71,000,000, was it?

Q. $74,000,000 I think you gave?

A. $74,000,000.

Q. And your capital you stated was $2,000,000?

A. Yes.

Q. And your surplus approximately what?

A. Approximately $10,000,000.

Q. And what were your deposits, approximately?

A. About $2,000,000.

Q. What amount of money did you have on hand, about, at that time?

A. $12,000,000.

Q. State whether or not your trust company had been examined by the State Examiner, and at what time, if you recall?

A. I do not recall the time, but it was examined and had been right straight through, in due course. It was examined, I think, in September, or early in October.

Q. State whether or not any complaint was made.

A. No complaint was made.

Q. Or whether your condition was criticised?

A. It was not criticised.

Q. On the 22nd of October, when the Knickerbocker Trust Company closed, had there been any run on your bank?

A. No, sir.

Q. Had there been up to that time any withdrawals of money beyond what had been normally withdrawn throughout the preceding year?

MR. LINDABURY: I object. I think you had better ask what the withdrawals were.

By MR. DICKINSON:

Q. State whether or not there had been any unusual withdrawals, anything in the nature of a run on your bank?

A. There was nothing in the nature of a run. As I remember it there would be a million withdrawn one day and perhaps a million and a half another day. I am speaking of net withdrawals.

Q. State whether or not they were the normal withdrawals?

A. It was nothing more than I should expect if a large trust company in the city failed or closed its doors.

Q. But previous to its failure, I am asking you whether there had been any unusual withdrawals?

A. No.

MR. LINDABURY: What do you mean by previous to its failure?

MR. DICKINSON: Previous to the failure of the Knickerbocker Trust Company.

MR. LINDABURY: I do not think he has mentioned that.

MR. DICKINSON: Oh, yes he has. I will ask the question again.

Q. Previous to the failure of the Knickerbocker Trust Company had there been any unusual withdrawals from your trust company?

A. I do not remember what the withdrawals were on the 20th and 21st, but if I am not mistaken I state that in here. (Referring to Stanley Committee Testimony.)

Q. You state here on the 22nd—that was the day the Knickerbocker Trust Company failed, I believe,—what the withdrawals were; but I am asking about the time just prior to the failure of the Knickerbocker Trust Company. Had there been anything in the nature of a run on your bank then?

A. No.

MR. LINDABURY: Cannot you give the date of the Knickerbocker Trust Company's failure in that connection?

MR. DICKINSON: The 22nd of October.

MR. LINDABURY: I do not think he has testified to it.

MR. DICKINSON: Yes, I think he did.

By MR. DICKINSON:

Q. When you closed on the night of the 22nd, state where you went, Mr. Thorne.

A. I went home.

Q. Did you or not receive any communication there from either Mr. Perkins or Mr. Davison and if so, what was it?

A. I did. There was a request to come over to the Union League Club to meet them.

Q. At what time did you get that, about?

A. About 11 o'clock.

Q. Whom did you meet there?

A. Mr. Davison and Mr. Perkins.

Q. What Mr. Davison was that?

A. Harry P. Davison, vice-president of the First National Bank, now with J. P. Morgan & Company.

Q. Mr. Perkins was George W. Perkins?

A. George W. Perkins, of J. P. Morgan & Company.

Q. Then a member of the firm of J. P. Morgan & Company?

A. Yes.

Q. State what passed between you and Mr. Davison and Mr. Perkins.

MR. LINDABURY: I object to that as irrelevant.

THE WITNESS: They asked me the financial condition of the Trust Company, and I showed them a statement of the company at the close of business on that day.

By MR. DICKINSON:

Q. Did that show your loans and assets?

A. It showed everything.

Q. And the amount of deposits?

A. And the amount of deposits. It showed deposits, the time loans the demand loans, and securities, all in total.

Q. If anything was said about an examination, state what was said and by whom.

A. They asked me if I would object to an examination being made to prove up the statement that I had shown them, and I told them that I would not, provided if the statement was found correct we would be given any assistance that might be needed. You understand at that time we were not, and never had been, members of the clearing house or of any association.

Q. State whether or not any arrangement was made about a committee coming.

MR. LINDABURY: I think he had better give all that took place.

By MR. DICKINSON:

Q. All right. Mr. Thorne, just state all that took place.

A. As I stated, they asked whether I would agree to an examination being made to prove the correctness or incorrectness of the statement that I had given them. I advised them that I would agree to such an examination provided, if said examination proved the statement to be correct, the trust company should be furnished such assistance as should be needed; and they agreed to that, and said that a committee would be appointed. I asked when they would make the examination, and they said the committee would be at the trust company office the next morning at seven o'clock. They said All right, and agreed to it. Mr. Perkins left, and Mr. Davi-

son and I talked about generalities, and I left in a few moments.

Q. Then where did you go?

A. I went home.

Q. Did you go to the trust company the next morning?

A. I did.

Q. About what time?

A. Oh, half-past six; before seven o'clock.

Q. You say you asked to be put on the same basis as the clearing house banks?

A. I do not remember the phraseology used.

Q. Explain what the clearing house bank arrangement was, and what you had in mind, please.

MR. LINDABURY: I object to what he had in mind. Let him state what was said.

THE WITNESS: What was said is exactly what I have stated; in other words, that if we needed assistance, it was to be furnished.

MR. LINDABURY: You have stated that.

THE WITNESS Yes.

MR. DICKINSON: I know he has.

MR. LINDABURY: I object to undeclared mental cogitations.

By MR. DICKINSON:

Q. State whether or not the committee met you there, and what was done, and what time they met.

A. The committee came there before the officers. I gave the committee a list of the securities to facilitate their work and let them get started. As soon as the officers came, I gave them access to all the books, papers, loans and everything.

Q. Who were on that committee?

A. There were seven members of that committee. I do not remember who they were. They were appointed by Mr. Davison and Mr. Perkins, but they were from the Chase, First and Bankers' Trust—men thoroughly accustomed to examining banks.

Q. State what the committee did and how long they stayed there.

A. The committee stayed there until between twelve and one o'clock.

Q. State, Mr. Thorne, whether or not that committee ever made a report, as far as you know, of their examination.

A. They did not.

Q. You say you got there about seven o'clock in the morning?

A. Yes, sir.

Q. Was or was not your attention called, and if so, how, to a publication in the newspaper of that morning; and if so, in what paper?

A. Mr. Hilton, secretary of the company, called my attention to an article in the New York Times.

Q. Have you that article with you?

A. I have.

Q. Produce it, will you?

(The witness produced the newspaper article referred to.)

MR. DICKINSON: Do you wish to look at this?

MR. LINDABURY: No. I do not care to look at it.

MR. DICKINSON: I offer it in evidence.

MR. LINDABURY: I object on the ground that it is incompetent, irrelevant and immaterial.

(The paper so identified was thereupon offered in evidence and marked "Government Exhibit No. 97, June 10, 1912.")

By MR. DICKINSON:

Q. This article refers to a meeting at the Hotel Manhattan, a conference with Mr. Cortelyou, Mr. Morgan and others. State whether or not you were at that conference, Mr. Thorne.

A. I was not.

Q. Did you know such a conference was taking place?

A. I did not.

Q. Did you know the Trust Company of America was being discussed at it?

A. No, sir.

Q. Up to that time had any one suggested to you that the condition of your company was regarded as critical?

A. No, sir.

Q. About what time, on the morning of the 23rd, was that article brought to your attention?

A. About half-past eight o'clock; between eight and nine o'clock.

Q. What time did you open your bank?

A. Ten o'clock.

Q. Now just go on and tell what occurred in the course of your business there, after the bank was opened.

A. A crowd collected and a run commenced; people congregated.

Q. State how many people were there, if you can?

A. There were several hundred, and the crowd kept increasing, and we opened up more paying tellers' windows to try and pay them off and get rid of them.

Q. How many paying tellers did you ordinarily have?

A. One.

Q. What did you increase it to?

A. Seven.

Q. What was your object in increasing the number?

A. Trying to get rid of the crowd; pay them off.

Q. So as to dissipate the gathering in front of your bank?

A. Yes, sir.

Q. Did you succeed in that or not?

A. No, sir.

Q. How much money did you pay out that forenoon?

A. I do not remember. We paid out $13,500,000 in a day.

Q. If you took any steps to meet the situation, if you called on anyone for aid, please state what you did and tell us all about it?

A. I called on Mr. Morgan, and at Mr. Morgan's office I met Mr. Stillman, Mr. Davison and Mr. Perkins.

MR. LINDABURY: George W. Perkins?

THE WITNESS: Yes, sir; partners of J. P. Morgan & Company. And I told them that we would need money, and they advised me about the trust company presidents getting together at Mr. Morgan's solicitation, and that there would be a meeting that night at 8:30, and they asked me to attend it, and they also gave me a million dollars——loaned me a mil-

lion dollars. I also saw Mr. Woodward of the Hanover and asked him for a loan, and he let me have, as I remember it, a million and a half.

By Mr. Dickinson:

Q. Did that committee or anyone else ever question the correctness of the statement you had given to Mr. Davison or Mr. Perkins?

A. I never heard it questioned, sir.

Q. You say you got how much from Mr. Morgan?

Mr. Lindabury: A million dollars, he said.

By Mr. Dickinson:

Q. Did you secure it at all?

A. Yes, sir.

Q. How?

Mr. Lindabury: I object as immaterial.

Mr. Dickinson: All right; enter the objection.

By Mr. Dickinson:

Q. Did you put up any collateral to secure it?

A. I did.

Q. If you had a meeting that night state where it was, who was present, and what was done?

Mr. Lindabury: Objected to as irrelevant, incompetent and immaterial?

A. The meeting was held at the Union Trust Company's uptown office.

By Mr. Dickinson:

Q. Who was there?

A. The late Mr. King, then president of the Union Trust Company, and Mr. Morgan, Mr. Stillman and Mr. Woodward.

Q. State if any further arrangements were made, and if any transactions were entered into and moneys loaned, and, if so, exhibit the agreements?

A They agreed to loan me $10,000,000 on $20,000,000 of collateral.

Q. That was on the 23rd, was it?

A. That was on the 23rd, yes. Now, as far as those agreements are concerned, those original agreements were given to the Stanley Committee, and I have never gotten them back, Mr. Dickinson.

MR. DICKINSON: I would like to use the printed copies in lieu of the originals.

MR. LINDABURY: We agree to that subject to objection as to relevancy.

MR. DICKINSON: Just mark then the copies here as introduced in evidence. They appear on pages 1670 of the Stanley Report and 1674.

MR. LINDABURY: You mean now as printed in the record of the Stanley Committee?

MR. DICKINSON: Yes; subject to correction.

MR. LINDABURY: The agreements under which Mr. Thorne secured the $10,000,000 loan?

MR. DICKINSON: There are three agreements.

MR. LINDABURY: Which are you offering now?

MR. DICKINSON: The $10,000,00 loan contract on page 1670.

MR. LINDABURY: As published in the Stanley Committee report?

MR. DICKINSON: Yes; then an agreement dated the 6th day of November, 1907.

MR. LINDABURY: That is the $15,000,000 loan?

MR. DICKINSON: Yes; that is page 1674.

MR. LINDABURY: We agree those shall both be used instead of the originals, subject to objection on the ground of relevancy and materiality.

(The papers referred to, being respectively an agreement dated the 24th day of October, 1907, between the Trust Company of America and the Union Trust Company, and an agreement dated the 6th day of November, 1907, between the Trust Company of America and the Union Trust Company were marked Government's Exhibits Nos. 98 and 99.)

By Mr. Dickinson:

Q. You made the loans described in these two agreements, did you, Mr. Thorne?

A. Yes, sir.

Q. And they set forth what the terms were?

A. Yes, sir.

Q. State what effect, if any, that article in the New York Times had upon the situation, as to whether it caused a run upon your bank?

Mr. Lindabury: I object to that as calling for an opinion or speculation.

Mr. Dickinson: I would like to have his opinion; I think it would be somewhat valuable on that question.

Mr. Lindabury: It would probably be as good as anybody's, but not evidential anywhere.

By Mr. Dickinson:

Q. Please answer the question, Mr. Thorne.

A. The run had started when that article was shown to me, and a number of people advised me that on account of seeing that article they wanted to withdraw their money.

Mr. Lindabury: I move to strike out the answer of the witness as hearsay and because it is otherwise irrelevant and incompetent.

By Mr. Dickinson:

Q. State whether or not during the time of the panic here and before the run upon you you had any conference with Mr. Melville E. Stone from time to time about the banking situation.

Mr. Lindabury: Objected to as irrelevant and immaterial.

A. Previous to the starting of the run?

Mr. Lindabury: That was the question.

Mr. Dickinson: Previous to that, I will say.

Mr. Lindabury: The objection is renewed.

The Witness: I did not know Mr. Stone at the time the run started, but I had many interviews with him shortly thereafter.

By Mr. Dickinson:

Q. State whether or not you knew of any agreement among bankers or any understanding between bankers or the representatives of the United States Steel Corporation that aid to your Trust Company was in any way connected with or conditioned on the relief of Moore & Schley or the sale of the stock of the Tennessee Coal & Iron Company to the United States Steel Corporation.

A. I did not.

Mr. Lindabury: You did not know of any?

The Witness: I did not know of any.

By Mr. Dickinson:

Q. When were you first promised this loan of ten million dollars?

A. On the night of the 23d.

Q. When were you promised the loan of fifteen million dollars?

A. The night of the 5th or 6th of November; I think it was the 6th.

Mr. Dickinson: That is all.

CROSS EXAMINATION,

By Mr. Lindabury:

Q. You said I think that you did not remember when the Trust Company of America was formed. Could you tell us about when it was formed?

A. I do not remember whether I testified to that in my previous testimoney or not; but the Trust Company of America was organized by Mr. A. P. Fitch.

Q. You do not remember the date?

A. I do not remember the date.

Q. You spoke of a consolidation. When did that occur?

A. That occurred several years prior to 1907; I do not remember that date either.

Q. Well, approximately?

A. It must have been 1904 or 1905—1903 '4 or '5.

Q. What was consolidated into that company?

A. The Trust Company of America the North American Trust Company and the City Trust Company.

Q. Did you become president at that time?

A. I did.

Q. And remained president until a few months ago?

A. Yes.

Q. What time on the 22nd did the Knickerbocker close its doors?

A. Twelve o'clock.

Q. 12:45 o'clock, was it not?

A. If you say so.

Q. You are not sure?

A. No. It was about the middle of the day. I remember that.

Q. Do you know how the withdrawals from your bank in the after part of the day compared with those during the earlier part of the day?

A. I do not.

Q. You have not informed yourself?

A. I have not.

Q. There was very much excitement attending the closing of the doors of the Knickerbocker Trust Company, was there not, in financial circles?

A. Surely.

Q. That was a very large trust company was it not?

A. It was.

Q. Was there any larger in New York?

A. Yes.

Q. What was it?

A. The Farmers' Loan and the Central Trust Company.

Q. Yes, I suppose so. How did it compare in size with yours?

A. It was a little larger.

Q. Had you any directors on the directorate of the Knickerbocker Trust Company?

A. One.

Q. Only one? Were there not two?

A. I think H. B. Hollins.

Q. Was not the president of the Knickerbocker Trust Company a director in your company?

A. Yes.

Q. That made two, assuming he was a director in his own company. Did you have a meeting of the trust company presidents that day in your bank?

A. No.

Q. Are you sure?

A. I am sure.

Q. I ask you because I notice the afternoon paper of that day records a meeting of the trust company presidents at your bank on that day.

A. There was no such meeting.

Q. Was this a newspaper error, you think?

A. I know there was no such meeting at our office.

Q. Did not a number of presidents of trust companies come to your office?

A. They did not.

Q. None of them were there?

A. None of them.

Q. You are quite confident about that?

A. I am.

Q. Did you attend a meeting of the trust company presidents anywhere that day, or evening I mean?

A. No. But what you have got in mind I am perfectly willing to tell you——

Q. No, I have not anything in mind except a newspaper article which I read a few moments ago, which stated, as I say, that there was a meeting of the presidents of the trust companies at your offices that day.

A. Well, there was not such a meeting.

Q. Did you attend a meeting of the presidents of the trust companies anywhere that day?

A. I attended a meeting of the State Bankers' Association, the trust company section, that day.

Q. Where?

A. I could not tell you where it was held; I have forgotten.

Q. Somewhere in New York?

A. It was in New York City.

Q. Yes. That was attended by a number of trust company presidents, was it?

A. It was a meeting of the trust company section of the Bankers' Association of the State of New York.

Q. I say: Was it attended by a number of presidents of the New York City Trust Companies?

A. Very few. None of the larger companies were members.

Q. I read from an article in the afternoon Sun of October 22, 1907, this:

"There was a conference this morning of all the trust company presidents in the City at the office of Oakleigh Thorne President of the Trust Company of America, 37 Wall Street."

You think that is an erroneous statement, do you?

A. It is.

Q. No such meeting occurred?

A. It did not.

Q. Do you remember that it was published?

A. I do not.

Q. How many paying tellers did you have at your bank on the 22nd?

A. We had two paying tellers.

Q. How many windows did you have open? How many men did you have actually paying?

A. On the 22nd?

Q. On the 22nd, yes.

A. One.

Q. Are you sure about that? Just think a moment, now.

A. When I say I am sure about it, all I know is what Colonel Dowd, our Vice President in charge, told me. I was not at the bank.

Q. You were not down there?

A. On the afternoon of the 22nd? No.

Q. You ordinarily had one paying teller?

A. Yes, sir.

Q. Did you increase the number on the afternon of the 22nd?

A. Not that I know of.

Q. You would not have been there yourself to see, and you

would have to trust to information on that point, I suppose? Is that so?

A. That is true. I was not there. I was attending the meeting of which you spoke, of the bankers, that afternoon.

Q. On the evening of that day, at bout 11 o'clock at night, I think, you had a call from Mr. Perkins or Mr. Davison, asking you to meet them at the Union League Club?

A. That is correct.

Q. This was at your house?

A. Yes, sir.

Q. Had you retired?

A. I had not.

Q. Had you had any conference regarding the financial situation that night?

A. I had not.

Q. You yourself had not been in very close touch with the financial disturbance, had you, at this time?

A. I had not.

Q. And you were not aware of its gravity at that time, were you?

A. I was not.

Q. Where did you get your information as to the seriousness of the situation?

A. The first information I got was from Mr. Hollins, who told me of the trouble at the Knickerbocker Trust Company; in other words, that the Bank of Commerce had declined to clear for them. The next information I got was from Mr. Davison and Mr. Perkins.

Q. That night?

A. That night.

Q. You learned that the situation was bad in many respects that you had not been informed about at all before that time?

A. That is correct.

Q. And that the trouble extended at least to Brooklyn?

A. Yes, sir.

Q. And was not confined to New York?

A. Yes, sir.

Q. And I suppose you were informed with regard to many details of the situation, by these gentlemen, were you?

A. Not many details, no.

Q. Well, some details?

A. Facts.

Q. Yes. I mean, then, facts as to the character of the difficulty that was being encountered?

A. More facts as to the standing and condition of various institutions.

Q. Yes. That you had learned were strained in the localities that you had not thought of, I take it?

A. That is true.

Q. Did you learn that Secretary Cortelyou had come on from Washington to see what could be done?

A. I do not remember being told that Mr. Cortelyou was in town.

Q. You knew he was at the conference at the Manhattan that evening, did you not?

A. I learned that afterwards. I do not think I knew it.

Q. You do not think you were informed of it then?

A. I do not think I knew there was a conference.

Q. I see. Tell me what these gentlemen said to you. You have given us some of the conversation you had when they met you. How did they approach this subject of the financial situation?

A. They asked me the condition of the Trust Company of America.

Q. Did they say why? I am trying to get a little further information.

A. Surely they did. They told me that they had been ascertaining the condition of many institutions, that the financial conditions in general were serious, and that they wanted to be as well informed as possible; and with that I took a statement out of my pocket and showed it to them, and that started the conversation.

Q. Did they then mention to you the condition of any other financial institutions?

A. They mentioned more in general. I do not remember.

Q. I do not mean to ask in names, but whether they went so far as to state what concerns——

A. I remember very well that they mentioned Brooklyn. As to whether or not they mentioned names, I could not say. The financial situation in Brooklyn was supposed to be bad.

Q. What, if anything did they say as to their motive for desiring to know what the situation was?

A. So that it would be taken care of.

Q. And by whom? What did they say about that? Who was going to take care of it? I want whatever was said to explain or justify their approach of you or their inquiry of you.

A. I do not think anything was said, but here is Mr. Davison and Mr. Perkins, and certainly Mr. Davison was the First National Bank, and Mr. Perkins was J. P. Morgan & Company, that is, representing them as far as I was concerned, and I did not ask them whom they represented or who was going to do this, that or the other thing; I simply took it for granted when they made statements to me that they knew what they were talking about.

Q. You recognized them as leaders in the financial circles of New York?

A. I certainly did.

Q. Had there been any rumors in the financial district of New York that day tending to affect the credit of your bank?

A. Not that I had heard.

Q. Not that you heard then, but have you heard of them since?

A. No; I have not.

Q. Have you not heard of the fact that there were rumors? Many rumors, of course, are baseless, but I am only asking whether or not you have not learned since that there were rumors tending to affect the standing of your bank.

A. As to when the rumors started, I do not know.

Q. Had there been any newspaper publications during that period that might have tended to affect your bank?

A. That I do not know.

Q. Was there not one in the New York Sun that morning?

A. Is that the 22d?

Q. Yes.

A. Is that the date of the article that Mr. Perkins showed me?

Q. That is my understanding, yes.

A. Mr. Perkins showed me an article in the Sun; I do not know the date. If it was the 22d——

Q. What was your testimony at Washington?

A. Whatever that date is. Of course the Sun will show.

Q. You saw the article, did you not?

A. I did not until I was in Washington

Q But you saw it there?

A Yes.

Q. And it spoke of your bank as being in some sort of trouble, did it not?

A. I do not remember the details.

Q. Or in danger of a run, or something to that effect?

A Something of that kind

Q You asked these gentlemen if they would help you in case you needed help and in case on investigation the statement you showed was verified?

A. That is correct.

Q. They said they would do it, did they not?

A. That is correct.

Q. How did you happen to have this statement in your pocket?

A. I had a statement every night.

Q. You were in the habit of taking a statement every evening home with you?

A. At the close of the business, it was sent to the house.

Q. Oh, it was sent to the house after you left?

A. Yes, sir.

Q. Then an examination was begun the next morning, and although no report was made two of the banking institutions loaned you two million and a half that afternoon, I believe; Morgan & Company a million, and the Hanover, was it?

A. Yes, sir.

Q. The Hanover a million and a half?

A. Yes, sir.

Q. I am right about that, am I?

A. Yes, sir.

Q. And you had a run on that day, the 23d?

A. Yes, sir.

Q. And that run lasted for some days thereafter?

A. It did.

Q. Did these gentlemen perform the promise that Mr. Perkins and Dr. Davison made to you?

A. No, I do not think they did.

Q. They did not help you?

A. They did not furnish the necessary funds.

Q. How much did they furnish?

A. That I do not know.

Q. What do you mean by "they"? Somebody furnished the necessary funds, did they not?

A. Yes, sir.

Q. Did Davison and Perkins promise that it should be furnished by any particular persons?

A. They did not.

Q. Did they not procure it to be furnished to you?

A. Yes; but here is the difference: They made the agreement with me that if that statement was found to be correct, they would furnish the money necessary to carry me through. In other words, it goes without saying that they would furnish it as and when needed.

Q. They furnished first two million and a half, or somebody did, and then ten millions and then fifteen millions?

A. Yes.

Q. In how long?

A. I do not know.

Q. Money was very, very hard to get in those days?

A. That I admit.

Q. Did not Mr. Morgan exert himself to support your bank and provide it with funds?

A. Mr. Morgan got the trust company presidents together——

Q. I do not want the details. Only did he——

Mr. Dickinson: I think he ought to answer the question.

By Mr. Lindabury:

Q. Yes, if you prefer to or Mr. Dickinson prefers.

A. Mr. Morgan got the trust company presidents together and they organized a committee and the presidents met in Mr. Morgan's library, and I presume Mr. Morgan did everything he could to get that money.

Q. You would not have got the help from them probably but for Mr. Morgan's action?

A. I believe if Mr. Morgan had said no, he could have stopped it at any moment.

Q. But there was some difficulty in organizing the trust company presidents, was there not?

A. I do not know.

Q. You do not know about that?

A. I had nothing to do with it.

Q. At any rate, there was no movement on their part either to organize or to help you until Mr. Morgan acted, was there?

A. There never was any other organization until Mr. Morgan got the presidents together.

Q. And the organization that was effected was effected by Mr. Morgan, was it not?

A. I believe it was.

Q. And how about Mr. Perkins? Was he active in getting you assistance at that time?

A. In getting in the money?

Q. Yes.

A. He was.

Q. And very active, was he not?

A. I believe he was.

Q. Did he not do everything so far as you know that anybody could do to relieve you?

A. That I do not know.

Q. You so testified at Washington, did you not?

A. No. The point is this: Mr. Perkins was active; he had more than he could do during those times, and I know that Mr. Perkins endeavored to get from these various banks and trust companies the payment to the Union Trust Company of their proportionate interest. I could not get the money from the Union Trust Company until the Union Trust Company received it.

Q. I understand that. I am only wanting to get your statement as to whether or not both Mr. Perkins and Mr. Morgan did not do everything that they could do so far as you could see to support your bank and help you through the panic.

A. When the run started, I have testified to that in this thing, yes (referring to Stanley report).

Q. No matter what you testified somewhere else. We are getting your testimony over again.

A. Yes, sir.

Q. Is it not a fact they did?

A. After the run started Mr. Perkins and Mr. Morgan did everything they could; yes, I think so.

Q. The run started on the morning of the 23d, did it not?

A. Yes.

Q. With reference to your sale of the Tennessee Coal & Iron Company stock, I think you did sell that stock?

A. I did.

Q. That was all paid for was it not?

A. It was.

Q. And was your own private property?

A. That was about the balance that I held; about five thousand shares.

Q. I mean the five thousand and something?

A. Yes, sir.

Q. That is all you sold, was it not?

A. That is all I sold.

Q. Did the gentlemen to whom you sold the seven thousand and odd, sell that?

A. Yes, sir.

Q. But their sale was disconnected with yours—you sold on your own account did you not?

A. I advised them all of the offer and advised them to sell, and they sold. I had nothing to do with their stock; had nothing to do with it.

Q. That is what I meant.

A. Yes, sir.

Q. You could have sold without them or they could have sold without you had you disagreed as to the policy of selling?

A. Yes, sir.

Q. Was there any pressure brought upon you to sell your stock?

A. No.

Q. You sold it because you chose to?

A. Well, I sold it because I chose to and I sold it because the syndicate managers had sold theirs.

Q. Your stock was not in the syndicate, was it?

A. No, sir. Well, it was in the syndicate control by the syndicate agreements.

Q. The syndicate had a right under the syndicate agreement to sell all the stock that the syndicate controlled if the majority or two-thirds thought it wise; did they not?

A. Yes, sir.

Q. Do you mean then that they sold yours in the exercise of that discretion, or that you were given liberty to sell it or withdraw it as you chose?

A. What actually happened was this. I was asked to deliver the stock to J. P. Morgan, being advised that the trade had been made and Mr. Grant B. Schley, as syndicate manager, asked me to do it, advised me to do it, told me all the syndicate stock was going in; in other words, it was acceptable to them.

Q. You exercised apparently an independent judgment on the subject of selling it, did you not; in other words, the sale was made with your assent and was not forced on you?

A. That is correct.

Q. That is right. That is all I meant.

A. Yes, sir.

Q. And the helping of the Trust Company of America had nothing to do with your sale.

A. Nothing whatever.

Q. And you did not make the sale in order to get the help that the Morgans gave the Trust Company of America, did you?

A. I did not.

Q. The two matters, so far as you were concerned, were quite disconnected?

A. So far as I knew, there was no connection.

Q. That is what I mean. And in your own mind you were not influenced at all to sell in the hope or with the desire of getting relief for the Trust Company of America?

A. No; never associated the two at all.

Q. What arrangement did you make with Mr. Davison and Mr. Perkins about the examination of your bank.

A. That they should appoint the examiners and that they should come in and examine it.

Q. And with respect to the time that the examiners should come?

A. I asked them when they would be there, and they told me the next morning at seven o'clock.

Q. What time did that conference break up on the night of the 22d?

A. About twelve o'clock; half-past eleven or twelve.

Q. What was the occasion for such quick action; that is, the appointment of a committee between twelve o'clock at midnight and the next morning, which committee should get to work as early as seven o'clock?

A. Well, you know Mr. Perkins.

Q. That is not an answer.

A. All I mean by that is that Mr. Perkins said: "We will do it and do it at once." I asked him who would be on the committee, and he said he thought he could get so-and-so and so-and-so and so-and-so on the telephone, mentioning names I did not know.

Q. These were important men, I take it?

A. Yes, they were men who had been used to examine banks.

Q. That is what I mean. Men of affairs and of recognized standing?

A. They were men working on salaries, I suppose, anywhere from $1500 to $2500.

Q. This was at half-past eleven o'clock?

A. Yes.

Q. And they would be selected and put to work by seven o'clock the next morning?

A. No; I was not given to understand that; I did not ask the question, but I took it for granted it was a committee they were using to examine banks.

Q. All right, but I mean the committee was to be put in operation and put to work by seven o'clock the next morning?

A. Yes, sir.

Q. Do you know what reason was given that night at your discussion for such quick action as that; a midnight committee to be appointed and to get to work at seven o'clock the next morning?

A. There was no discussion. I presented a statement and they said, "If it is correct, we will assist you." As soon as they could ascertain whether it was correct or not the better I was pleased.

Q. Exactly, but was there any discussion as to the probability of a run the next morning?

A. No, sir.

Q. There was no apprehension of a run the next day on your bank?

A. Not that I remember. No run in the sense of the word we know as a run now. There might have been a withdrawal of a few millions of dollars.

Q. What time in the morning did your bank open?

A. Ten o'clock.

Q. That was to give an opportunity of a three hours' examination before ten o'clock?

A. Not at all.

Q. If they got there at seven o'clock, that would give three hours' work before the bank opened at ten o'clock, would it not?

A. Yes; but the examination did not have to be concluded by ten o'clock.

Q. I understand that it did not, but I am wondering why it was that an examination, three hours of which at least would occur before the bank opened the next day, was thought by any of you to be of account.

A. I do not think it was.

Q. You got there yourself at half-past six the next morning?

A. I did, because they told me the committee would be there at seven.

Q. Why was it necessary for you to get up and get down there at half-past six?

A. Because I wanted to be there when the committee got there; I knew the other officers would not be there.

Q. That was very early for you, was it not?

A. I have been up a good many mornings earlier than that.

Q. You had not been to the bank a good many mornings as early as that, I take it?

A. No, sir.

Q. They were there promptly at seven o'clock, were they?

A. They were.

Q. And got to work?

A. I gave them a statement.

Q. And how soon did you telephone for help to Morgan & Company?

A. I did not telephone.

Q. I thought you said you did. Well, you communicated with them.

A. I went to Mr. Morgan along the middle of the day. If you notice that article, it says they were going to make an examination.

Q. Never mind about that. You went personally to Mr. Morgan?

A. I did.

Q. Where, to J. P. Morgan & Company's banking house? A. Yes, sir.

Q. About Midday?

A. Yes.

Q. And I believe you found a number of people there?

A. There were a number of people there.

Q. Did Morgan see you pretty soon?

A. I saw Mr. Morgan in the main corridor. He walked out from behind, as I remember it, with Mr. Stillman. I saw them both there.

Q. Were any other bankers there, Mr. Baker or Mr. Davison?

A. Mr. Davison was there. I think Mr. Baker was, I think Mr. Perkins was there.

Q. It was a time of great excitement, was it not?

A. It was.

Q. Were there any stock exchange people there at the same time?

A. Oh, undoubtedly; I do not remember.

Q. Anyhow, the situation that day was very grave, was it not, that day and that hour, noon, of the 23d?

A. It surely was.

Q. And you got from Mr. Morgan a million dollars?

A. I got a million dollars.

Q. When was that promised you? When did he tell you you could have it?

A. I should think about half-past two; two to half-past. Mr. Stillman told me they would let me have it.

Q. I want to ask you about a publication in the New York Sun on the 23rd of October, 1907. You read the New York Sun in those days, I suppose?

A. I do not know whether I saw the New York Sun that day or not.

Q. "Long before the officers or clerks were prepared to go home (evidently meaning the day before) it became known that the Trust Company of America was suffering from the public knowledge that Charles T. Barney had a loan of $175,000 from it."

Did Mr. Barney have a loan from your company of $175,000?

A. I think he did. I do not remember positively.

Q. He was your director and was he not President of the failed Knickerbocker Trust Company?

A. Yes, sir.

MR. DICKINSON: Are you going to put the article in?

MR. LINDABURY: I do not know.

MR. DICKINSON: I object, then.

MR. LINDABURY: I will put it in if you wish it.

By MR. LINDABURY:

Q. (Reading.) "And that $3,000,000 of its deposits had been gently withdrawn during the day while the eyes of everybody were fixed on the spectacular Knickerbocker Trust Company run."

Had $3,000,000 of your deposits been withdrawn gently or otherwise that day?

A. No, sir.

Q. By any process?

A. No, sir.

Q. It is stated in this article, you will observe, that all this,—that is the Barney loan, and the $3,000,000 withdrawal,—was known long before the officers or clerks were prepared to go home on the afternoon of the day before. You did not know that?

A. I did not.

Q. Except about the Barney loan?

A. Mr. Barney had a loan, but I do not remember that it was $175,000.

Q. And you do not know that this became publicly known before the clerks and officers were prepared to go home on the afternoon of the day before?

A. It was not a fact. How could it become known?

Q. You did not know that there were rumors to that effect?

A. I did not.

MR. DICKINSON: You are referring now to the withdrawal of $3,000,000?

MR. LINDABURY: To that and to the loan.

MR. DICKINSON: He said he knew about the Barney loan.

MR. LINDABURY: No; he did not know it was public talk.

By MR. LINDABURY:

Q. I will continue to read:

"In the face of the danger that threatened their company through the spreading of these reports the directors of the Trust Company of America did not remain idle. They had $12,000,000 of cash in their vaults, but remembering the fate of the Knickerbocker, which in two minutes and a half yesterday lost $2,500,000, they hurried to the offices of their various connections and did their best to make arrangements for temporary accommodation."

Is that correct?

A. It is not.

Q. You were not in the bank in the afternoon, you have told us. Did you know what the others did?

A. I know that they did not do anything of that kind.

Q. What time did you go to attend this meeting that you have referred to, on the afternoon of the 22nd?

A. As I recall it, about two o'clock. It was in the afternoon.

Q. When did you return?

A. It was after the close of banking hours. It was after three o'clock.

Q. After three o'clock that afternoon?

A. Yes.

Q. What happened in that hour, therefore, you did not know from being a participant?

A. No. All I knew was what I was told.

Q. But you think this account in the Sun of the morning of the 23rd as to the happenings of the afternoon before is not quite accurate?

A. I think if any officer or director had gone around asking for assistance I would have known it.

Q. I will read further:

"Some of them were present at the conference last night with Secretary Cortelyou in his suite at the Manhattan Hotel."

What do you say to that?

A. I say it is not correct.

Q. You were engaged over at the Union League with Mr. Perkins and Mr. Davison, were you not?

A. I was.

Q. And are you quite sure that none of your directors was at the conference at the Manhattan Hotel?

A. All I can say is that I have asked every one of them.

Q. And they say that they were not there?

A. Every one of them told me that he was not.

Q. When did you ask them?

A. Oh, I have asked them from time to time. I do not think I have asked them during the last year, but——

Q. You must have seen this article.

A. I did not see it.

Q. You did not? Did you not read the newspapers in those days?

A I did not have much time to read all of them.

Q. Was your attention not called to this article in the Sun?

A. I do not remember that article.

Q. Is this the first information you have had about it?

A. No.

Q. When was your attention first called to it?

A. In Washington, by Mr. Perkins.

Q. Mr Perkins called your attention to an article of the 22nd, did he not, and this is the 23rd?

A. This is an article that appeared on the 23rd, yes. Well, I do not remember that article at all. My attention may never have been called to it.

MR. DICKINSON: (After examination of the article referred to). There seems to be some of this omitted. Is some of it omitted?

MR. LINDABURY: I suppose so, judging from the stars. This is simply a copy of the article, or part of the article.

MR. DICKINSON: I would like to see the whole article.

MR. SEVERANCE: I think we can get it. If we cannot get the paper itself we can send and have it copied in full, from the newspaper files.

MR. DICKINSON: I will enter an exception now to the use of this copy unless the full article is put in.

MR. SEVERANCE: We will satisfy you as to the authenticity of the article.

By MR. LINDABURY:

Q. When did you first know that the Knickerbocker Trust Company was in trouble?

A. The night of the 21st.

Q. The night before it failed?

A. Yes, sir.

Q. Where?

A. At a meeting held at Sherry's.

Q. Who attended that meeting?

A. All the directors of the Knickerbocker and a number of other gentlemen.

Q. You were not a director of the Knickerbocker Trust Company?

A. I was not.

Q. How came you to be there?

A. I was asked there.

Q. For a conference over the situation?

A. Yes.

Q. Who, outside of the directorate of the Knickerbocker Trust Company, was there?

A. Mr. Morgan was there, Mr. Steele was there, and Mr. Perkins was there.

Q. Was that for the purpose of determining whether or not help should be extended to the Knickerbocker Trust Company?

A. It was.

Q. I presume that was the meeting at which it was decided that the Knickerbocker was beyond help?

A. It was not decided at that meeting, as I understand it, because they opened the next morning. The idea when I left was to raise a fund of $10,000,000.

Q. To help the Knickerbocker out?

A. Yes.

Q. When was the decision announced that the Knickerbocker should not be helped?

A. I heard it the next morning, about half past eleven or twelve o'clock.

MR. DICKINSON: What morning was that?

MR. LINDABURY: The morning of the 22nd.

By MR. LINDABURY:

Q. An hour or two before it closed its doors?

A. Yes, sir.

Q. How did you get the word?

A. Mr. H. B. Hollins told me.

Q. One of your common directors?

A. Yes, sir.

Q. He informed you of it?

A. Yes, sir.

Q. Was Mr. Hollins at your bank on that day; did he remain there the afternoon of that day?

A. I do not think so.

Q. Which of your directors did remain there that day?

A. I do not think any of our directors remained there that day.

Q. Were none of them there on the afternoon of that day?

A. Some may have been in and out, but I do not think they remained there at all.

Q. None of them remained there?

A. Not that I remember.

Q. You testified before the Stanley Committee, did you not, as follows:

(Reading from page 1677 of the Record of the Stanley Committee:)

"MR. LITTLETON: You do not know the sources of the money?

"MR. THORNE: I do not; but I do know that, as Mr. Perkins well knows, I used to object to having this line out in front, and was trying to get money, a portion of this $15,000,000, more rapidly; and no one worked harder than Mr. Perkins did to endeavor to get the participants to pay in their money in order to pay it to me."

You remember so testifying?

A. Yes, I do.

Q. And that was true?

A. I believe it was. He was certainly always busy, and assured me he was doing everything he could.

Q. You issued a statement to the public on November 6th, did you not, Mr. Thorne?

A. I issued a statement; I do not remember the date.

Q. I get the date from the record of the Stanley Committee, a copy of that statement being published in that record.

A. That date, I believe, is correct.

Q. If you have a copy, please look at it, at page 1682.

A. I have it here.

MR. LINDABURY: I desire to offer that statement in evidence, and will do so now. You do not object to its being put in, Judge Dickinson?

MR. DICKINSON: I would have put it in, but I thought you would probably object. I would like to have it in.

MR. LINDABURY: The stenographer will copy that statement in and mark it an exhibit. It is found at page 1682 of the Stanley Committee record.

(The statement so identified was marked "Defendant's Exhibit No. 12, June 10, 1912," and will be found in full in the book of exhibits.)

By MR. LINDABURY:

Q. You state in there, referring to the panic——

"When the storm broke, to my utter amazement, its chief

force was directed against the Trust Company of America. It is idle now to discuss the reason why. The fact remains that public attention was riveted upon this institution by newspaper publication, and the run developed into a persistent and steadfast demand. This run is unprecedented in the history of banking. In a few days our receipts were in excess of our payments, but altogether we have paid out since it began over $34,000,000. Throughout the whole period of stress I have courted the closest examination into our affairs, and last Saturday night, for instance, the banking interests who had been so helpful in the emergency, appointed a committee of experts to go through our assets."

What were the banking interests who did that? I am speaking of the gentlemen.

A. You mean who appointed the committee?

Q. Yes. You refer in the statement to the banking interests who had been so helpful in the emergency?

A. I believe Mr. Stillman and Mr. Davison appointed that committee.

Q. Who was Mr. Stillman?

A. The president of the National City Bank.

Q. I will proceed.

"These experts had no interest in the matter whatever."

That is the committee you referred to there?

A. Yes, sir.

Q. "They found, after working all night Saturday night and half the day Sunday, that we had enough, even at the present low market prices, to pay every dollar of our deposits, to leave our capital intact, and a substantial surplus."

That is what they found, is it?

A. Yes; I believe so. That is what they reported.

Q. I will read on:

"I think in the end it will be profitable for the Trust Company of America that this fierce light should have beat upon it and should have disclosed the character of its securities. There have been all sorts of wild rumors afloat,"—— what did you refer to then?

A. As to these rumors?

Q. Yes.

A. I refer especially to the one that we owned, the West-

chester and Portchester, and that we were loaning largely on Norfolk and Southern and other large enterprises, some of which rumors were true and some of which were absolutely false. For instance, the Portchester and Westchester—it was rumored that we had all of that, owned all their securities and would not be able to finance it. As a matter of fact, we never had a dollar in it.

Q. There were other rumors too, were there not, respecting your investments?

A. Yes.

Q. It was also rumored that your directors were heavy borrowers, was it not?

A. Yes: all kinds of rumors that you would suppose would be circulated about a company in trouble.

Q. I will read further:

"There have been all sorts of wild rumors afloat, but it is not definitely known that no officer or director of the bank has been improperly using the funds for his own purposes; no officer has had a loan here in excess of legal limits, and the president of the institution has no loans whatever. Neither has any company with which the president was associated had any loans. * * *

"I should be untrue to myself if I did not make an acknowledgement of the help we have received at our fellow bankers' hands in New York. There has been a great deal of misapprehension on the part of the public concerning this matter. No officer or director has been asked to resign, and there has been no absorption of this company by any other. A number of gentlemen of very high character and undoubted responsibility have entered into an agreement by which a majority of our stock is to be deposited with them as voting trustees, and they are to act with an advisory committee in co-operation with our Board of Directors."

These statements are all true, I suppose?,

A. I believe they are.

Q. And explain the situation as you saw it?

A. They do.

Q. On that day?

A. Yes, they do.

Q. And you will observe that you attributed the run and

the situation in which your bank was involved to the wild rumors that you have alluded to at that time. Was it your opinion then that that was the occasion of the difficulty?

MR. DICKINSON: I except to that statement. He first stated it was riveted on the institution by newspaper publications.

MR. LINDABURY: Publication of the rumors, though.

MR. DICKINSON: No. He did not say rumors.

MR. LINDABURY: We will see.

MR. DICKINSON: He repeats the rumors further down. He says:

"The fact remains that public attention was riveted upon this institution by newspaper publication and the run developed into a persistent and steadfast demand." Further down he sepaks of the rumors.

MR. LINDABURY: If a newspaper does not publish rumors I do not know what a newspaper does publish.

MR. DICKINSON: I think you intended to make him say what is not apparent. I do not think he did say it though.

MR. LINDABURY: I read that especially in connection with the testimony he gave before the Stanley Committee, as a description of his situation with respect to these first rumors he spoke about, which were found to be baseless upon examination, on account of which he was glad of the fierce light that had been turned on his institution.

I will ask the witness to answer the question.

THE WITNESS: What is the question?

(The question was repeated by the stenographer, as follows:)

"Q. And you will observe that you attributed the run and the situation in which your bank was involved to the wild rumors that you have alluded to at that time. Was it your opinion then that that was the occasion of the difficulty?"

THE WITNESS: I believe that run was largely attributable to this article in the New York Times, and the rumor started principally after that, and after the run commenced.

By Mr. Lindabury:

Q. Are you quite sure they started after that?

A. So far as I am concerned, so far as the rumors I heard, the principal rumors started after the run commenced.

Q. They did not get into the newspapers until after that; is not that correct?

A. The article in the Sun was on the 22nd, referring to that.

Q. Was not that enough to set them going in all the papers?

A. Not if it could be shown to the papers that they were unfounded.

Q. Then, is not the difficulty that this committee, the first committee, did not report, and that no committee did make an investigation and make an authoritative report until this Saturday night and Sunday work was done? Was not that the trouble?

A. The difficulty, in my mind, was that this article stated that if they were solvent they would be helped, and if they were not they would close at one o'clock— "Come and get your money before that time." That is what this article says.

Q. Did you go to see Mr. Stone for the purpose of having him help you clear up the situation?

A. I did.

Q. You have testified before the Stanley Committee on that subject, as follows, on page 1686:

"Mr. Thorne: My object in talking to Mr. Stone was to get a committee to make a report to Mr. Morgan. Mr. Morgan was the dominating influence, the one influence that I looked up to as being in charge of everything. He was doing everything that he possibly could, and I wanted to impress on Mr. Morgan that we were solvent. There were all sorts of rumors around that we were full of 'cats and dogs,' and this, that, and the other, and I wanted to get a report made by people appointed by them—that is, by Mr. Morgan's interests, to report to them, believing that if I could get the truth on the situation, and the truth of the situation of the company before Mr. Morgan, together with the agreement that

we had entered into between Mr. Perkins, Mr. Davison, and myself, to the effect that if this statement I had made was correct support would be given us, Mr. Morgan would do it or see that it was done; and the moment he got that report he did see that it was done."

You so testified and that statement is correct, is it not?

A. It is.

Q. Further you testified, at page 1687, as follows, did you not: You were being asked by Mr. Sterling as to the amount that Morgan's banking house furnished to you, and you answered, "I do not know the amount; that is all. I want to be emphatic on this, that there is no question about Mr. Morgan furnishing money to help the Trust Company of America. If it had not been for Mr. Morgan's work the Trust Company would have closed absolutely."

You stand by that statement, do you not?

A. I do. Mr. Morgan's work in many ways—for instance, as you suggested before, the getting together of the trust company presidents, and the meetings in his library, and so on—who else would have done it, who else could have done it?

Q. Then you were being asked about the newspaper publications, and Mr. Perkin's connection, and you answered as follows, in reply to the Chairman, at page 1689:

"You have got to be fair. You cannot realize, sitting here in this room, what was going on in New York then. Mr. Perkins has said here that he was busy here, there, and the other place. He was not only busy here, there, and everywhere, but he was there practically twenty hours a day; and, as I say, I do not say that Mr. Perkins wrote that article. I do not know it. I do not know who wrote that article."

That is a description of the activities of Mr. Perkins at that time, I suppose?

A. He was very active.

Q. He was working for several days for twenty hours a day?

A. That is true.

Q. This was not the only affair he had on hand, but there were many more or less similar, were there not?

A. I believe there were.

Q. And Mr. Perkins' work generally was to restore confidence and protect financial institutions of the city, was it not?

A. I believe he was endeavoring in his way to do everything he could to restore confidence.

Q. That was what he was spending the twenty hours a day in doing, apparently, was it?

A. He was very active.

Q. And he was very effective in doing the things that were done by the financial men, was he not?

A. He was.

Q. You testified with regard to your state of mind at the meeting of the 22d when you held a conference with Davison and Perkins as follows; bottom of page 1697. You were asked by Mr. Gardner:

"You knew that the Knickerbocker Trust Company had failed, did you not?"

And you answered:

"Yes, surely; but I did not know the gravity of the situation on the stock exchange, and I did not know the gravity of the situation of Moore & Schley, and I did not know the gravity of the situation of various clearing house banks, or the gravity of the situation in Brooklyn."

You remember that, do you not?

A. I do.

Q. And that statement is true, is it not?

A. It is.

Q. "Mr. Gardner: And none of your clerks or officials had called your attention to this Sun article?"

You answered: "No, sir."

That is true, is it?

A. It is.

MR. LINDABURY: I think that is all.

RE-DIRECT EXAMINATION.

By MR. DICKINSON:

Q. Mr. Thorne, there were two committees appointed, were there?

A. Two committees to examine the trust company?

Q. Yes.

A. Yes.

Q. The one that met on the morning of the 23d?

A. Yes, sir.

Q. And that never did report?

A. No, sir.

Q. You have been asked about another committee. State whether or not you had not persistently urged that another committee be appointed to examine into your affairs for the purpose of giving you relief, and how long it took to get that.

A. I kept urging that the committee that started the investigation should report, and finish it.

Q. And it never did report?

A. It never did report.

Q. Did you not urge that another committee be appointed?

A. I kept urging that, and then the other committee was appointed. I was called up and asked if I would accept the other committee, and of course I said I would.

Q. And that was not until the fourth?

A. No, sir.

Q. And in the meantime there had been a run on you from the 23d to the 4th?

A. That is correct.

Q. And you said you understood from Mr. Davison and Mr. Perkins that if the examination was satisfactory they would give you relief?

A. Yes, sir.

Q. As and when needed?

A. That was not their statement; I said that.

Q. Was relief given as and when needed?

A. No.

Q. You never got any effectual relief until November the fifth?

A. Yes, I did. At the meeting of the 23d when I got ten millions of dollars —

Q. The 23d?

A. The 23d of October, or 24th, was it? 23d, or 24th, the first ten-million-dollar loan.

MR. LINDABURY: The 24th.

THE WITNESS: Yes, the 24th.

MR. LINDABURY: The 23d, you got $2,500,000?

THE WITNESS: Yes. As a matter of fact, Mr. Lindabury, it was that night we got the agreement for the ten millions.

By MR. DICKINSON:

Q. That night?

A. It was the night of the 23d. Of course the agreement would not be dated the 23d, but the agreement was entered into verbally the night of the 23d.

Q. When did you get the agreement for the $15,000,000?

A. I got that on the sixth. But when I got the $10,000,000 I thought the $10,000,000 was all that would be needed.

Q. But the run was started and you could not stop it.

A. Yes, sir; the withdrawals were far heavier than we anticipated.

Q. Did that first committee finish up its work in your bank?

A. It never completed it.

Q. They had all the opportunity, did they?

A. As far as I know, they had.

Q. Your books were thrown open to them, were they not?

A. Yes, sir.

Q. Did they come back any more after the morning of the 23d?

A. No, sir.

Q. Did they give any explanation of it?

A. No, sir.

Q. This ten million dollars that was promised to you, when did you get that? When was it actually paid to you?

A. Well, I had a portion of it on the 23d. I stated in the Stanley Committee there it was paid $6,000,000, I think, on the 24th, and a million along in two or three days; it was given in detail in the Stanley Committee.

Q. Here you say: "I received $6,951,000 on October 24th; $2,150,000 on the 25th; $180,000 on the 26th; $591,000 on the 28th; $100,000 on the 30th; and the balance on the 31st." That is shown in your testimony.

A. That is correct.

Q. And on page 1674 you testified as to the $15,000,000 loan:

"We received $1,000,000 on November 6th; $2,700,000 on the 7th; $1,000,000 on the 8th; $500,000 on the 9th; $2,850,000 on the 11th; $300,000 on the 12th; 200,000 on the 13th; $400,000 on the 14th; $400,000 on the 15th; $350,000 on the 16th; $800,000 on the 18th; $150,000 on the 19th; $150,000 on the 23d; $200,000 on the 25th; $200,000 on the 29th; $250,000 on the 30th; $200,000 on December 2d; $100,000 on December 3d; $100,000 on December 7th; $100,000 on December 12th; $100,000 on December 13th; $100,000 on December 16th; $1,300,000 on December 19th; and $1,550,000 on February 4th."

That is a correct statement, is it?

A. Yes, sir; I believe it is.

MR. DICKINSON: That is all.

MR. LINDABURY: Only a question or two more.

RECROSS EXAMINATION.

By MR. LINDABURY:

Q. Mr. Thorne, how do you know that committee, the first committee appointed by Perkins and Davison that went to work on the morning of the 23rd, made no report?

A. Owing to the fact that they left our office about twelve or one o'clock; 12 o'clock.

Q. Yes?

A. And they never came back and they could not have made a report without access to our records in our office.

Q. But I understood you to say they were to make the examination for the purpose of enabling Messrs. Morgan and Davison and Stillman and the others to determine whether they would help you. Was not that the object of the examination as you understood it?

A. I suppose an examination is a report——

Q. No, no.

MR. DICKINSON: Let him answer.

MR. LINDABURY: He may explain afterwards.

By Mr. Lindabury:

Q. But was not that the object of the examination, that they could be informed as to whether or not the statement which you gave them was correct?

A. Surely.

Q. Do you know whether they told Davison and Perkins or Mr. Morgan what they found in that respect? In other words, whether they had not found by your books that your statement was correct?

A. When I went to Mr. Morgan——

Q. Before you do that——

A. Yes, sir; I do.

Q. That they did not so report?

A. I know it because Mr. Davison told me that they had examined our securities, and they had been all the morning examining our securities. Now I do not know from knowledge that they did not report, but I knew that they were not in position to report because they had not examined our loans.

Q. Perhaps not fully, but on the same day and within two hours after they finished the examination so far as they went, you did obtain from the bankers two millions and a half, and on the evening of that same day you obtained from them an agreement for another ten millions, which you thought was all you would need. What basis was there for their extending that payment to you except the statement that you had given and whatever confirmation of it the examiners had been able to make?

A. The collaterals——they loaned it purely on the collaterals. The collaterals we gave them were double the loans.

Q. So you think the help they gave you was a loan based entirely on collaterals?

A. No; I do not. I think the loan that they made me was based——they would not have made a loan unless they believed it was to help the situation.

Q. Exactly.

A. But the collaterals given were good for the loan, or else they would not have made it.

Q. Of course they would not, to help the situation, have made it without adequate collaterals, but do you not think

the examiners on the morning of the 23rd had obtained sufficient information to be able to satisfy the bankers that the loan that you asked would help the situation?

A. I do not think the committee ever reported as to our condition at all, because they were not in possession of facts to enable them to do so.

Q. How do you think that the bankers became satisfied that the help they gave you of $12,500,000 would help the situation? You mean they merely took your word for it?

A. I think very largely they took my word for it, and took the amount of our deposits, divided into trust deposits, time deposits and certificates and demands, and agreed with me that ten millions would be all——

Q. Then they confirmed half of that report, and finding that was accurate they apparently took your word for the rest of it, is that it?

A. To the extent of lending the $12,000,000.

Q. That is what I mean, that extent. You wanted a report for publication, however, did you not, to meet these rumors?

A. No; I did not. I wanted the report made to O. K. the statement I had given Davison and Perkins.

Q. But you had gotten the money.

A. That did not make any difference.

Q. You wanted a report anyhow.

A. I had not gotten all the money I needed.

Q. You said a moment ago you had all you thought you would need?

A. On the evening of the 23rd we thought $10,000,000 would be enough to see us through.

Q. Then you wanted another $15,000,000, and did get another examination?

A. What we wanted was enough to see us through.

Q. Yes. I say, then you wanted another $15,000,000 and did get another examination, and you did get a report?

A. Yes; after the examination was made we got the other $15,000,000.

MR. LINDABURY: That is all.

By Mr. Dickinson:

Q. The basis of the loans was the securities you gave and the collateral you gave?

A. Surely.

Mr. Lindabury: We will agree the loans were secured by adequate collateral.

The Examiner: We will take a recess until 2 o'clock p. m.

(Whereupon, at 12:30 o'clock p. m., a recess was taken until 2 o'clock p. m.)

AFTER RECESS.

The hearing was resumed at the expiration of the recess.

OSMUND PHILLIPS,

called as a witness on behalf of the United States, being first duly sworn, testified as follows:

By Mr. Corneau:

Q. What is your business?

A. Financial Editor of the New York Times.

Q. How long have you occupied that position?

A. A little over a year.

Q. What was your position before that?

A. A reporter on the Times, in the financial bureau.

Q. How long had you occupied that position?

A. Eleven or twelve years.

Q. Where were you on the evening of October 22, 1907?

A. I spent part of that evening at the Hotel Manhattan.

Q. What was the occasion of your being there?

A. A conference of bankers with the Secretary of the Treasury, Mr. Cortelyou, regarding the financial situation.

Q. Please tell us what happened while you were there.

Mr. Severance: Objected to as irrelevant and immaterial.

A. I am not sure that I understand. I was not at the conference.

By Mr. Corneau:

Q. No. I understand that. Tell us what happened while you were at the hotel, describe the events of the evening.

Mr. Severance: The same objection.

A. The bankers came to the hotel to attend this conference and spent some time there, and later in the evening I saw some of them leaving the hotel.

By Mr. Corneau:

Q. What occurred then?

A. I approached some of them, asking them questions about the result of the conference.

Q. Can you recall whom you approached?

Mr. Severance: All this goes in under my objection, is it understood?

Mr. Corneau: Yes.

A. I recall, I think, Mr. Davison, vice-president of the First National Bank; and Mr. Perkins of J. P. Morgan & Company.

By Mr. Corneau:

Q. What was said by each of them at that time?

A. By whom—by Mr. Perkins, or by Mr. Davison?

Q. By both and each of them.

A. I put to Mr. Davison, as I remember it, some general question regarding the matters discussed at the conference, and so far as I remember I got no specific information from him. I put a somewhat similar question to Mr. Perkins when he was leaving the hotel, and he told me that he wanted me to meet him at the Union League Club.

Q. Had you seen Mr. Perkins earlier in the day?

A. I had.

Q. What occurred at that meeting?

A. I saw Mr. Perkins toward the end of the afternoon at the office of J. P. Morgan & Company, and I asked him for information regarding the events of the day bearing on the financial situation, and he told me that he had nothing to say

at that time, that there was going to be a conference that night, and that if I would meet him after the conference he would tell me what he could.

Q. Did he appoint a place for you to see him after the conference?

A. Yes, the Union League Club.

Q. Did you go to the Union League Club to see him that evening?

A. I did.

Q. Did you see him?

A. I did.

Q. Will you please state what was said by him and by you at that time?

A. Mr. Perkins opened the conversation by saying that he presumed I wanted to know about the Trust Company of America. I told him I did. He told me that their situation had been discussed at a conference, meaning the conference at the Hotel Manhattan, and that it had been decided to help them provided the statement of their condition which was made to the conferees proved satisfactory. He told me, further, that the plan was to have a committee at the Trust Company of America the following day with a view of making a report during the day if possible, that they had found the condition of the company entirely satisfactory, the idea being that this statement would relieve any anxiety the public might feel regarding the condition of the company. I brought to his attention the fact that a somewhat similar statement had been made about the Knickerbocker Trust Company the night before. I do not mean by Mr. Perkins, but by others interested in the Knickerbocker. I brought that to his attention and the fact that that sort of a reassurance did not seem to avail in the case of the Knickerbocker. I mean to say, I told him that the public might infer from the failure of the Knickerbocker after that statement, that a similar statement regarding the Trust Company of America might not be helpful. He said that the fact was that the Knickerbocker Trust Company had not been helped because the Morgan interests felt convinced that their capital and surplus had been impaired, and that was the reason they had not helped it; but as they understood, the Trust Company of

America was in a very different situation, and they would, provided these figures were correct, go ahead and help them.

Q. I think you stated that he said to you at that time that a committee was to be appointed to make the examination. I think you stated that.

A. I think I testified to that, yes.

MR. LINDABURY: Inferentially, yes; but not directly.

By MR. CORNEAU:

Q. You said that at the beginning of the conversation Mr. Perkins said, "I suppose you want to know about the Trust Company of America?" and your reply was, "I do." Or something of that kind. Was that all that was said at that time?

A. I testified as to what followed that.

Q. I meant with reference to that particular question.

A. Yes, I think it was.

Q. Had you known Mr. Perkins before that time?

A. I had.

Q. He knew with what paper you were connected?

A. He did.

Q. After seeing Mr. Perkins, what did you do next?

A. Seeing him in the evening, you mean?

Q. On this occasion in the evening of October 22, 1907?

A. I went to the telephone and telephoned to my office substantially what Mr. Perkins had told me, or the substance of it, regarding the Trust Company of America, and then I went back to the Manhattan, where I met newspaper men who had been waiting there for my return.

Q. What did you do then?

A. I gave them the substance of what Mr. Perkins had said.

Q. Did you see the Times of the next morning?

A. I did.

Q. Was the story—I mean that in the newspaper sense—as given to you by Mr. Perkins reported there?

MR. SEVERANCE: Objected to as leading. You have asked him as to what Mr. Perkins said to him, and he has told you.

Now you can introduce the paper and it can speak for itself as to whether or not it was what Mr. Perkins said.

MR. CORNEAU: The paper has been introduced.

MR. SEVERANCE: I know, but that is not a question for him to say, as to whether he has testified to the same thing that is in the paper.

MR. CORNEAU: Very well. I will ask this question.

By MR. CORNEAU:

Q. You have said you saw the Times the next morning and what appeared in it in reference to this?

A. Yes.

Q. Please state whether or not what appeared in the Times the next morning was substantially an accurate account of what was said to you by Mr. Perkins.

MR. SEVERANCE: I object to that. The witness was asked to state his conversation with Mr. Perkins. He has stated his conversation with Mr. Perkins. Now you have the paper in evidence and any one can compare it. It is not a question of testimony as to whether the article is the same thing that the witness has testified to. The same is objected to as incompetent and leading.

By MR. CORNEAU:

Q. Answer the question.

A. It is substantially correct.

Q. Have you a copy of that article with you?

A. Yes, I have one.

Q. Have you stated so fully as you can recall offhand all that was said by Mr. Perkins at that time?

A. I think I have, the substance of it.

Q. I will ask you to look at the copy of the article which you now produce and state whether or not, after you have refreshed your memory by reading that article, it states the substance of the conversation between yourself and Mr. Perkins with substantial accuracy.

MR. SEVERANCE: The question is objected to as irrelevant and leading. It does not appear that the witness wrote this

article. In fact it appears that he did not, and this is no way to get to the substance of the conversation. He cannot refresh his recollection by something that somebody else wrote.

MR. CORNEAU: He read it the next morning.

MR. SEVERANCE: Objected to as leading and incompetent and immaterial.

MR. DICKINSON: It is agreed, I understand, that this article is the same as the other article which was introduced in evidence, which is not before us at this moment?

MR. SEVERANCE: We will admit that the paper shown the witness is a copy of the one offered in evidence under objection, this morning, marked "Government's Exhibit No. ~~98~~ 97."

(The question was repeated by the stenographer as follows.)

"I will ask you to look at the article which you now produce and state whether or not, after you have refreshed your memory by reading that article, it states the substance of the conversation between yourself and Mr. Perkins with substantial accuracy."

THE WITNESS: I think it does.

By MR. CORNEAU:

Q. Will you state whether or not that is substantially what you telephoned into the office?

MR. SEVERANCE: Objected to as leading, incompetent and immaterial.

A. In substance, yes. I cannot testify as to the wording of it: I do not remember what the wording was.

By MR. CORNEAU:

Q. State whether or not it is substantially what you told the other newspaper men when you returned to the Manhattan Hotel and gave out the story there.

MR. SEVERANCE: Same objection.

A. It is, in substance.

MR. CORNEAU: That is all.

CROSS EXAMINATION,

By Mr. Severance:

Q. The financial situation in New York on the 22d of October was very mixed, was it not?

A. It was.

Q. There was a great deal of excitement?

A. There was a good deal.

Q. A great deal of gossip?

A. A good deal.

Q. That was the day that the Knickerbocker Trust Company had closed its doors?

A. It was.

Q. Did you, during the day of the 22d, previous to this evening meeting with Mr. Perkins and these other gentlemen, hear any rumors or statements in the financial district to the effect that the Trust Company of America was likely to become in a position of difficulty?

Mr. Corneau: Objected to as incompetent.

A. I did.

By Mr. Severance:

Q. From whom did you hear such statements?

A. The first intimation I had about the Trust Company of America that day came from the office of the National Bank of North America. A gentleman from that bank told me he understood that the State Banking Department had made a special examination of the trust company that day.

Mr. Corneau: It is understood that all this goes in under the general objection?

Mr. Severance: Certainly.

By Mr. Severance:

Q. Did you hear from other sources or any other source that afternoon that it was rumored that the Trust Company of America was in trouble or was likely to get into trouble?

A. I did.

Q. From whom, if you remember?

A. I remember some one stopping me in the street that afternoon, very close to the office of the Trust Company of America, and asking me what I knew about the rumors I had heard about the Trust Company of America.

Q. Was that the reason why you replied to Mr. Perkins as you did when he asked you at the Union League Club in the way that he did ask you, whether you wanted to find out about the Trust Company of America?

A. That had something to do with it. I wanted to get from him whatever information he could give me.

Q. Your business at that time was to go about through the financial district and get all the information you could about the situation?

A. It was.

Q. But you had acquired this information, and there was gossip about the Trust Company of America, and that was the reason you replied the way you did to Mr. Perkins?

A. Yes, subject to what I have said about my answering him that way, because I wanted to get whatever information he would give me.

Q. What were the rumors that were afloat that afternoon that came to your ears about the Trust Company of America?

A. The rumor was a general one, that there was some trouble with the Trust Company of America.

Q. It was known generally in the financial district, was it not, that the president of the Knickerbocker Trust Company was a director of the Trust Company of America?

A. That was a matter of record.

Q. And commonly known by people?

A. I think so.

Q. Not only of record, but commonly known?

A. I think so.

Q. And it was also a rumor that he was a heavy borrower from the Trust Company of America, was it not?

A. I was so informed that afternoon by the state bank examiner. I had not heard the rumor up to that time.

Q. In this article which was published in the Times the next morning there appears an interview with the state bank examiner, Judson—I believe that is his name?

A. Yes.

Q. Who took that interview?

A. I did.

Q. That statement contained in that article, which has been introduced in evidence, was the interview given you by Mr. Judson, the statement he made with reference to the Trust Company?

A. That interview, yes.

MR. CORNEAU: I am not sure that that has been introduced in evidence.

MR. SEVERANCE: I thought you introduced the whole article.

MR. CORNEAU: I did not see the article that was introduced.

MR. SEVERANCE: It is in the same article, I understand.

MR. LINDABURY: I understood Judge Dickinson intended to put in the whole article.

MR. CORNEAU: I presume so.

MR. LINDABURY: We do not want any misunderstanding as to how much has gone in.

By MR. SEVERANCE:

Q. There had been references to the Trust Company of America of a certain sort in the evening papers on the 22nd, had there not?

MR. CORNEAU: Objected to, because the papers speak for themselves.

A. Some references.

MR. SEVERANCE: We do not want to put in the whole of the Evening Post for that day, but I want to call attention to a portion of the financial article published that day. Are you willing that I should put in part of it without putting in the whole article?

MR. CORNEAU: Put in what you please. It will all go in under objection; first on the ground that it is incompetent and immaterial. I do not want to make the point that the whole article should be put in, no.

(The paper so identified was marked "Defendants' Exhibit No. 13, June 10, 1912.")

Q. Exhibit No. 13 is the New York Evening Post of Tuesday, October 22, 1907, is it not, Mr. Phillips?

A. It is.

Q And that is the day that you heard these rumors about the Trust Company of America, and it was on the evening of that day that you saw Mr. Perkins at the Union League Club?

A. It was.

Q. This paper comes out in the afternoon, several hours before the time you saw Mr. Perkins?

A. It does.

Q. It was a fact of common knowledge that day, by men in the financial district, was it not, that the presidents of the trust companies, or certain of them, had been having a meeting at the Knickerbocker Trust Company's office?

MR. CORNEAU: That is objected to as incompetent in any event, and more particularly because this witness has not qualified himself to answer what was a matter of common knowledge by other people.

MR. SEVERANCE: You are mistaken about that. He is very well qualified. It is his business to know.

A. I do not remember that.

By MR. SEVERANCE:

Q. You do not remember that?

A. No.

MR. SEVERANCE: I will read from an article in Exhibit 13, the Evening Post, Tuesday, October 22nd, 1907, identified by the witness, headed "Trust Company closes. Knickerbocker suspends temporarily," the following, and I will read the whole article if you want, but there are several columns of it.

MR. DICKINSON: Is this a duplicate of that?

MR. CORNEAU: I assume so. It is our copy of the same paper.

MR. SEVERANCE: Look at the next to the last column of page 2.

MR. CORNEAU: Which is your edition?

MR. SEVERANCE: It says here "Extra. Last edition."

I am reading from this article "The presidents of the trust companies who first gathered for a conference at the Knickerbocker offices, later went to the office of Oakleigh Thorne, President of the Trust Company of America."

Do you recall that publication in the POST that day?

A. I recall the publication, yes.

Q. And that was several hours before your talk at the club with Mr. Perkins?

A. I do not say that I recall seeing it that afternoon; I do not recall seeing it that afternoon.

Q. You do not remember it?

A. No, sir.

MR. SEVERANCE: I offer that part of the article in evidence, with the understanding, I presume, that you do not want the whole article?

MR. DICKINSON: Yes; we except to that, but the excerpt can go in just the same as if it were the entire article.

MR. SEVERANCE: Do I understand you are objecting to this on the ground it is not proper cross examination, Mr. Corneau?

MR. CORNEAU: I made that objection, yes.

MR. SEVERANCE: Do you want to insist on that objection, or would it not be better to clean up this matter while we are at it, rather than to have us put this all in as part of our case?

MR. LINDABURY: Let it be taken as part of our evidence, if you will.

MR. SEVERANCE: And put it in now instead of making two bites at a cherry.

MR. DICKINSON: That is all right.

MR. SEVERANCE: May the record so state, Mr. Corneau.

MR. CORNEAU: Yes.

MR. LINDABURY: You refer now to the evidence of the other publications and rumors?

MR. SEVERANCE: Yes, and such additional papers as I may want to have identified and read into the record at this time.

MR. DICKINSON: No objection, only I want to get it clear on the record what you want read.

By Mr. Severance:

Q. Do you identify this copy of the New York Tribune for Wednesday, October 23rd?

Mr. Dickinson: You need not make him identify them. Just put them in as your exhibits.

Mr. Severance: Then I offer in evidence the publication in the New York Tribune of Wednesday Morning, November 23rd, 1907, under the head of "Knickerbocker Trust Shut," and some other headings, the following:

"It was reported last night that more than $4,000,000 of deposits had been withdrawn——

Mr. Corneau: From where are you reading?

Mr. Severance: Down here in the first column of these last two.

"It was reported last night that more than $4,000,000 of deposits had been withdrawn from the Trust Company of America yesterday. The man who made this statement was one of the members of the conference, which included Secretary Cortelyou, Mr. Morgan, Mr. Hepburn and others, at the Hotel Manhattan."

And I read also from the next column under the head of "Cortelyou to the Rescue":

"A well-known banker who attended the conference at the Hotel Manhattan, at which Secretary Cortelyou was present, said after the meeting in regard to the financial situation: 'Attention has been riveted to the Trust Company of America, of which Oakleigh Thorne is President. It is believed by the clearing house interests, and also the Morgan interests that the situation in this trust company is vastly different from that in the Knickerbocker, if the condition of this company is such as those who were represented at the conference have every reason to believe.

"Those who attended the conference can announce authoritatively that the Trust Company of America is to be cared for and supplied with necessary cash pending an investigation of the accounts of the Company by a Committee already named at the conference to-night. If the position of

the Trust Company of America is such as the bankers have every reason to believe it will be cared for in every eventuality. It is understood that the chief reason the Knickerbocker Company was not assisted to-day by the clearing house interests and those of Mr. Morgan and his associates, was because it was considered that the capital and surplus of that company had been impaired. The Trust Company of America has $12,000,000 cash in its vaults."

Now, on the next page, first column. (Reading):

"Oakleigh Thorne, President of the Trust Company of America, denied last night that his institution was in any danger whatever. Inquiry in the highest banking quarters earlier in the day had been answered by an expression of opinion to the same effect, that the Trust Company of America was in a thoroughly sound and safe condition.

"President Kinsman of the New Amsterdam Bank denied last night the reports that the institution was in danger. He said:

"'These reports are wicked, unqualified falsehoods. The clearing house has certified to the condition of the bank. It is all right.'

"Mr. Thorne said, regarding the general financial situation, that while it undoubtedly is bad, it might be much worse. 'What is needed,' he said, 'is the dumping of $15,000,000 or $20,000,000 in actual cash into the banks to restore the balance and put money in circulation. The situation is not that trust companies or banks are foundering, but that they can't get ready cash to go on.'"

The paper so identified was marked Exhibit 14, June 10, 1912.

I also read from the New York World of Wednesday, October 23, 1907. I believe you said I need not have this identified, Judge?

MR. DICKINSON: Yes.

MR. SEVERANCE: In an article under the head of:

"Knickerbocker Trust and Brokers suspend; $68,000,000 involved."

MR. DICKINSON: From what column and page are you reading?

MR. SEVERANCE: The last two columns.

MR. DICKINSON: On the first page?

MR. SEVERANCE: On the first page:

"Knickerbocker Trust and Brokers suspend; $68,000,000 involved."

"Day of apprehension in the financial district marked by the closing of the Barney concern, the failure of Mayer & Co., a big brokerage house, and a smash in prices on the Stock Exchange. Failure to extend promised aid forces Knickerbocker to quit.

"Big trust company will be abandoned to its fate and may not resume. $8,000,000 withdrawn in run by excited depositors. State officials may take charge of the concern. Secretary Cortelyou here; declares national banks are sound. May extend Government aid. Bankers will stand by Trust Company of America."

Now, in that article, about half way down the page, after discussing the Knickerbocker Trust Company, I read the following:

"Reports concerning the condition of other trust companies were of such a character as to prevent any reasonable prediction as to their future history, though the feeling throughout the financial district last night seemed to be that with the suspension of the Knickerbocker the worst result of the recent financial disturbance had been realized.

"A conference of bankers who had been appealed to by the promoters of one or two trust companies decided at an early hour this morning to assist the Trust Company of America if found necessary, and to consider future applications of other companies, if made. Oakleigh Thorne, the President of the Trust Company of America, owns a controlling interest in the Georgia Central Railroad and is active in other railroad and industrial ventures. The Trust Company of America has $12,000,000 in its vaults."

Now, down about the middle of the first column of the next page I read:

"The banking interests of the city were pronounced last night by Chairman Sherer of the Clearing House, and other bankers who are members of the Clearing House Committee to be in an absolutely safe condition. The investigating committee of the Clearing House made an examination of all the

banks whose credit it certifies and gives a clean bill of health to all of them.

"Banks all pull through.

"Six banks, including the Bank of Commerce, owed balances, but the character of their securities was such as to leave no question of the payment of their debit accounts.

"Naturally there were disturbing rumors regarding other banking and trust companies, but up to midnight there was no official announcement regarding any of them.

"Officials of the New Amsterdam Bank and of the Trust Company of America flatly contradicted statements that their institutions were embarrassed and might have to call for help."

Again calling your attention to the article in the New York Times——

MR. DICKINSON: Of the 23rd, is that?

MR. SEVERANCE: Of the 23rd.

By MR. SEVERANCE:

Q. You stated that you yourself interviewed Mr. Judson, the bank examiner?

A. I did.

Q. He was state bank examiner, was he not?

A. He was.

Q. You interviewed him over the telephone?

A. I did.

Q. And did you write the substance of what he said to you; and did that go into this article?

A. Yes, sir.

Q. It appears in quotation marks in the article. I will read it, with two lines before:

"State Bank Examiner Albert C. Judson, it was learned last night, made an examination yesterday of all of the loans of the Trust Company of America. Confirmation of this fact was obtained last night from Mr. Judson himself. Mr. Judson, at his home in Staten Island, said:

" 'It is true that I made an examination of the Trust Company of America's loans to-day. My purpose in making this

examination was to investigate reports which had been spread abroad that both C. W. Morse and Charles T. Barney were heavy borrowers from the Trust Company of America. My examination revealed the fact that Mr. Morse has no loans whatever with the Trust Company of America, and that the only loan which Mr. Barney had, amounted to $175,000, and this was amply secured.' "

What I have just read is in quotations. That is the end of the quotation.

Now, did Mr. Judson make that statement to you?

A. He did.

Q. "Mr. Judson's attention was drawn to the fact that the last report of the Trust Company of America to the State Banking Department showed that the liability of directors to the Trust Company reached a total of $3,489,516. Mr. Judson said that practically all of these loans represented call loans to directors who happened to be brokers, and are borrowing money on call in the usual course of business. All of these loans, Mr. Judson said, were fully secured by collateral which showed the usual margin of 25 per cent in market value over the amount of the loans."

Did Mr. Judson state that to you?

A. He did.

Q. And is it a fact that you called Mr. Judson's attention to the fact that the last report showed this liability by the directors of the Trust Company of this large sum of money?

A. Yes; I drew his attention to that.

Q. How did you know it?

A. I looked it up in the report of the banking department.

Q. How did you happen to look it up? Because of the gossip that was about with reference to the Trust Company of America?

A. Because of the reports which had been spread regarding the loans to Morse and Barney and other directors.

Q. How long had these reports been going around?

A. I did not hear them until that afternoon.

Q. You heard them that afternoon?

A. Yes.

Q. And it was then you looked them up?

A. Yes.

Q. Mr. Morse had controlled some banks here in New York that had recently failed, had he not?

A. They were in trouble. They had not yet failed.

Q. They were in trouble, and known to be in trouble?

A. I think they were known to be in trouble at that time, yes.

Q. Had not any of them failed at that time? Had they not been closed up before that, any of them?

MR. LINDABURY: Let us see about this for a moment.

THE WITNESS: My recollection is that the Knickerbocker Trust Company was the first one to close.

MR. LINDABURY: That may be so. I had the contrary impression.

THE WITNESS: I have not refreshed my memory about it since the time.

By MR. SEVERANCE:

Q. This article further proceeds: (Reading):

"One of the chief officers of the Trust Company of America showed no hesitancy last night in saying that the bank examiners had made an inspection of the Trust Company of America's loans. This officer said, as Mr. Judson had previously, that the reason for the examination was to investigate reports of any loans to Mr. Morse and Mr. Barney."

Did you write that?

A. I did.

Q. Who is the officer of the trust company that told you that?

A. I cannot remember definitely.

Q. It was not Mr. Thorne, was it?

A. It was not Mr. Thorne.

Q. It was some other officer of the Trust Company?

A. Yes.

Q. He told you that that afternoon?

A. Or early in the evening. It might have been six o'clock, or something like that. It was either in the afternoon or very early in the evening.

Q. He told you this previous to your talks with Mr. Perkins?

A. Yes.

Q. And when you were up there at the Manhattan Hotel, that evening, there was a lot of reporters there, were there?

A. A good many.

Q. And were they in the same line of service as yourself? That is, were they reporters for the financial departments of their respective papers?

A. They were not all from the financial departments, but they were all working on that story that night.

Q. These rumors with reference to the Trust Company of America and the examination of the Trust Company were current among these newspaper men that night, were they not, at the Manhattan Hotel?

A. I do not remember that we talked about it.

Q. You do not remember that?

A. No.

Q. You do remember the talks down town?

A. I do.

Q. Who went over to the Union League Club with you?

A. No one went with me. I left the Manhattan Hotel shortly after Mr. Perkins himself left, and caught up with him on the way to the club.

Q. But none of the other newspaper men went with you?

A. No other one went with me. I met one of them at the Club.

Q. Was he present at the interview?

A. At the interview between Mr. Perkins and myself?

Q. Yes.

A. He had an interview with Mr. Perkins at which I was not present.

Q. Did you have any talk with these other newspaper men about the rumors concerning the Trust Company of America?

A. I do not think we talked about them, no.

MR. SEVERANCE: Mr. Corneau, I have here a clipping from the columns of the afternoon edition of the New York Sun of the 22nd, and I want to read simply one sentence from that story, which is under the head of: "Company suspends payment. Knickerbocker Trust Company closes doors temporarily."

MR. CORNEAU: Subject to the general objection already made, there is no objection to your reading a part of that; it being understood, of course, with reference to all of these articles, that if there is anything in there that we may deem pertinent, we may put it in.

MR. SEVERANCE: I offer this in the same way as the other newspaper articles.

MR. CORNEAU: Yes.

MR. SEVERANCE: This portion of the article with that heading reads as follows:

"There was a conference this morning of all the Trust companies in the city at the office of Oakleigh Thorne, president of the Trust Company of America, 37 Wall Street."

That was on the afternoon of the 22nd. That is all.

REDIRECT EXAMINATION,

By MR. CORNEAU:

Q. In reply to a question asked you by Mr. Severance, Mr. Phillips, you stated, as I have it jotted down here, that you wanted to get from Mr. Perkins whatever information you could about everything?

A. That is right.

MR. LINDABURY: About everything pertaining to the financial situation.

MR. CORNEAU: The financial situation.

THE WITNESS: I so understood the question.

MR. CORNEAU: I take it any news of any kind.

MR. LINDABURY: No; he was only dealing with the financial situation.

By MR. CORNEAU:

Q. If you should have happened to have picked up some other item of news you would have been glad?

A. That is all I was looking for that night.

Q. Will you state whether or not you had specifically in mind the Trust Company of America as the news item which you expected to get from Mr. Perkins?

A. I do not remember that I had that in mind any more than any other possible point of trouble.

Q. Did Mr. Perkins give you any item of news except that?

A. He did not.

Q. Do you know how many state bank examiners were in the city on the 22d?

A. I do not.

Q. Do you know whether or not there was an unusual number of examiners in the city on that day?

A. I do not know of my own knowledge whether there were or not.

MR. CORNEAU: That is all.

MR. LINDABURY: That is all, Mr. Phillips.

(Witness excused.)

C. W. BRAY,

called as a witness on behalf of the United States, being first duly sworn, testified as follows:

DIRECT EXAMINATION,

By MR. CORNEAU:

Q. What is your business, Mr. Bray?

A. Farmer.

Q. How long have you been in that business?

A. Three years.

Q. I did not get your residence. What is your residence?

A. Bridgeport, Pennsylvania, is my mail residence. I live at King of Prussia, Pennsylvania.

Q. What was your business prior to three years ago?

A. President of the American Sheet & Tin Plate Company.

Q. And how long did you hold that position?

A. Three years.

Q. What was your position before that time?

A. First vice-president of the American Sheet & Tin Plate Company?

Q. And how long did you hold that position?

A. About one year.

Q. Before that, what was your business?

A. Chief engineer and assistant to the president of the American Sheet & Tin Plate Company.

Q. And how long did you hold that position?

A. I think for about a year too.

Q. You may state whether or not it was from the time of the organization of the American Sheet & Tin Plate Company.

A. No; this chief engineer addition was a little additional title I got at the time the American Sheet Steel Company and the American Tin Plate Company were combined. Previous to that I was chief engineer of the American Tin Plate Company from the time of its organization.

Q. And before that time, what was your business?

A. Before that time I was president of the Beaver Tin Plate Company, Lisbon, Ohio.

Q. And prior to that?

A. I was secretary and chief engineer of the Lloyd Booth Company, Youngstown, Ohio.

Q. Up until about what time was that?

A. Up until 1894.

Q. And from when?

A. From 1888.

Q. What was your position before that?

A. I was draftsman with the Lewis Foundry & Machine Company of Pittsburg.

Q. What sort of machinery did those two machine companies you have referred to manufacture?

A. Rolling mill machinery.

Q. What sorts of mills?

A. Rolling mills, steel works, tin plate works, sheet mills; all kinds of steel works and rolling mill machinery.

Q. You were in that line all together about eight years, I judge?

A. I was in it from the time I was 18 years old, and I am 48 years old now.

Q. It is not important; a number of years?

A. I suppose it was eight or ten years, yes.

Q. And during the time you were president of the Beaver

Tin Plate Company, did you have occasion to deal with machinery makers?

A. Oh, yes.

Q. Are you familiar with the concerns which were engaged in the making of machinery for tin plate mills at that time?

A. Yes, sir.

Q. Can you state what the names of the principal machinery makers were, say in 1898 and 1899?

A. Yes; the A. Garrison Foundry Company, Pittsburg; the Lewis Foundry & Machine Company, Pittsburg; Lincoln Foundry Company, Pittsburg.

Q. Was that the same as the Lincoln Roll & Foundry Company?

A. Yes; that is it. I may not have the exact titles right. The Totten & Hogg Iron & Steel Foundry Company, I think the title is.

Q. I have a concern known as the George A. Hogg Iron & Steel Foundry Company.

A. That is it; the George A. Hogg. They changed their name.

Q. It was the same concern?

A. The same concern, yes. Seeman, Sleeth & Company. Or you might have that under the name of the Phoenix Roll Company.

Q. Seeman, Sleeth & Black?

A. That is it; the same company; they changed their name too. The Frank Neeland Machine Company. Have you got that?

Q. I have a concern known as the Frank Neeland Company.

A. The Frank Neeland Machine Company I think was the title. The Lloyd Booth Company, the company I was with? You have that, have you not?

Q. I have.

A. Now if you read any more you have, I will tell you, but I cannot remember all of them.

Q. I just wanted to see how many you could remember. Did you know a concern known as the Robinson Rea Company?

A. Robinson Rea Company, but I think they were consolidated with the Mesta Machine Company.

Q. Mackintosh, Hemphill & Company?

A. Yes, they made part of the machinery.

Q. And the Riverside Foundry Company?

A. Well, they were in business, yes, making rolls.

Q. I am asking for any concern you can recall that was in the machinery business.

A. Yes, sir; Riverside Foundry Company.

Q. Can you recall any others?

A. There was another in Youngstown, a very small one; I think it was the Youngstown Foundry Company.

Q. And any others that you can recollect?

A. I told you the Llyod Booth Company, did I?

Q. You did, yes.

A. Well, there was one down here, the Philadelphia Roll Machine Company, in Philadelphia; they did not get much business in the West.

Q. Was it a large or a small concern?

A. Not very large; I may dig out a few more if I look them up.

Q. Those are all you think of now?

A. Just now, yes, sir.

Q. State whether or not the Llyod Booth Company, to your knowledge, while you were with it, was selling tin plate machinery to the tin plate manufacturers generally throughout the country?

A. Yes, sir.

Q. And was that true of the Lewis Foundry & Machine Company?

A. Yes; they were all bidders, practically all bidders on that work.

Q. All that you have named?

A. Yes, sir, except Mackintosh, Hemphill & Company, who came into it later. At that time they were building engines and more heavy steel works machinery, such as blooming mills and bar mills; but not any tin plate and sheet particularly; but they came into it later.

Q. In the course of your experience you became rather familiar with the tin trade, I take it?

A. Yes, sir.

Q. You knew in a general way the concerns engaged in the tin plate business?

A. Yes, sir.

Q. Can you state whether or not the concerns that were engaged in the tin plate business generally along in 1898 were marketing their goods in the same markets?

A. Well, a good many of them were, yes; some of them marketed through jobbers.

Q. And in states other than the states in which they manufactured, I take it?

A. All of them, yes, sir.

Q. You become connected with the Beaver Tin Plate Company in 1894?

A. Yes.

Q. At that time do you know whether or not there was an association known as the Tin Plate Association, or something of that sort?

A. Something of that kind; Sheet & Tin Plate Association, or something of that sort, yes.

Q. Was the Beaver Tin Plate Company a member of that association?

A. Yes, sir.

Q. Did that association have meetings?

A. Yes.

Q. How long did that association continue in existence?

A. We continued in existence up to the time of the formation of the American Tin Plate Company, and perhaps after that; I do not know; I did not follow it after that.

Q. Were the members of that association pretty generally taken into the American Tin Plate Company?

A. Well, the tin plate manufacturing members.

Q. That is what I mean.

A. I do not know whether the sheet people carried on that association later or not, you know. That is the reason I answered you in that way.

Q. Let us see if we can fix the membership of that association prety well. Do you remember whether or not the Aetna Standard Iron & Steel Company was a member of that association?

A. Yes, sir.

Q. The American Tin Plate Company of Ellwood, Indiana?

A. Yes, sir; I think it was.

Q. Do you know who represented them at the meetings?

A. Oh, I suppose Mr. Leeds, who was the operating head of that company would represent them. I think perhaps he represented them.

Q. Any one else that you recall?

A. There were a good many meetings, and they might have sent down some one else at some time.

Q. But you have no specific recollection about it?

A. No.

Q. The Atlanta Steel & Tin Plate Company of Atlanta, Indiana?

A. Yes. I do not know who represented them.

Q. But you recall they were members?

A. Yes.

Q. The Baltimore Tin Plate Company, Baltimore, Maryland?

A. I do not believe they were members.

Q. The Blairsville Rolling Mill & Tin Plate Mill?

A. Yes, sir; I remember they were members.

Q. The Britton Rolling Mill Company, Cleveland, Ohio?

A. Yes, sir.

Q. The Canonsburg Iron & Steel Company?

A. They were a sheet mill, although they are down there as tin mills. They made black plate specialties; they did not have tin plate; I think they belonged to the association, but I am not sure about that.

Q. The Cincinnati Rolling Mill & Tin Plate Company?

A. I am not so sure about that; they were not very important.

Q. Crescent Sheet & Tin Plate Company, Cleveland, Ohio?

A. Yes.

Q. Cumberland Steel & Tin Plate Company, Cumberland, Maryland?

A. Yes.

Q. Ellwood Tin Plate Company?

A. Yes.

Q. Falcon Tin Plate & Sheet Company, Niles, Ohio?

A. Yes.

Q. Great Western Tin Plate Company, Joliet?

A. Yes.

Q. Hamilton & Company?

A. No——they did have mills, but I do not think they were members; I am not sure.

Q. Humbert Tin Plate Company?

A. Yes.

Q. Irondale Steel & Iron Company?

A. Yes.

Q. Johnstown Tin Plate Company?

A. I did not think they were in existence then.

Q. Perhaps they were not? You are speaking now of what time?

A. You asked me, as I understand, at 1899.

Q. Yes.

MR. SEVERANCE: 1898.

MR. CORNEAU: Immediately before the formation of the Tin Plate Company.

THE WITNESS: I think Youngstown came in later. There were a good many of those mills when they were first organized that had run along for quite a little while before they came in.

Q. La Belle Iron Works of Wheeling, West Virginia?

A. Yes, sir.

Q. Laughlin Nail Company?

A. Yes, sir.

Q. Marshall Brothers & Company, Philadelphia?

A. Yes.

Q. Taylor Tin Plate Company?

A. Yes.

Q. Morewood Company?

A. Yes.

Q. Morton Tin Plate Company?

A. Yes.

Q. National Tin Plate Company?

A. Yes. Now, that National Tin Plate Company, is that at Ellwood or Monessen?

Q. Monessen and Anderson.

A. They were not built yet. The Anderson was in.

Q. Neshannock Sheet & Tin Plate Company?

A. I am not sure about them?

Q. New Castle Sheet & Tin Plate Company?

A. Yes.

Q. Ohio River Sheet & Tin Plate Company?

A. I do not think so.

Q. Pennsylvania Tin Plate Company?

A. Yes.

Q. Pittsburg Tin Plate Works?

A. Yes.

Q. Reeves Iron Company?

A. I am not sure about that.

Q. Shenango Valley Steel Company?

A. They were not built at the time.

Q. Star Tin Plate Company?

A. Yes; I think they were members.

Q. United States Iron & Tin Plate Manufacturing Company?

A. Yes.

Q. Wallace, Banfield & Company?

A. Yes, sir.

Q. Washington Steel & Tin Plate Mills?

A. Yes.

Q. Will you please state whether or not at the meetings of that association prices of tin plate and other products were determined or agreed upon?

A. I think they were discussed.

Q. Were there understandings arrived at as to what they should be?

A. Why, yes, I believe there were at that time.

Q. And that was done in accordance with a contract between the members of the association?

A. No; there was no contract.

Q. There was a contract executed between them.

A. I never saw a contract; I do not know that there was.

MR. LINDABURY: Why do you say there was? Why do you state that fact?

MR. CORNEAU: I was just going on to produce the evidence.

MR. LINDABURY: You asserted the fact.

MR. CORNEAU: I am going to produce the contract and ask him to identify it; ask him if this was the contract.

MR. SEVERANCE: He says there was not any.

MR. LINDABURY: I do not mean to infer you meant anything improper.

MR. CORNEAU: I assure you, Mr. Lindabury, I did not.

THE WITNESS: If there was a contract, I will say frankly I had forgotten about it.

By MR. CORNEAU:

Q. I hand you this and ask you to look at it and refresh your recollection.

A. Yes; you have my name on here. I guess I must have been a party to it, but I want to say I had forgotten about it.

Q. That is all right, Mr. Bray.

A. What is the date of this thing?

THE WITNESS: 1896.

MR. CORNEAU: I ask to have this marked for identification.

THE WITNESS: I do not think it lasted very long.

MR. CORNEAU: I move to strike that out as not responsive to any question.

MR. SEVERANCE: I can ask it over again.

(The paper referred to was thereupon marked for identification "Government's Exhibit 100.")

By MR. CORNEAU:

Q. Can you identify Government Exhibit No. 100?

A. Yes, on account of my signature on there I can identify it.

Q. That is your signature?

A. Yes, sir.

MR. CORNEAU: I offer this in evidence.

(The paper so identified, heretofore marked for identification, was marked Government Exhibit No. 100.)

By MR. CORNEAU:

Q. I will read this from the beginning.

"ARTICLES OF AGREEMENT

OF

TIN PLATE MANUFACTURERS.

IN CONSIDERATION OF the mutual promises and covenants hereinafter, the undersigned manufacturers of Tin and Terne Plate and Taggers Tin, hereby agree with each other and one to the other:

"FIRST:—That they will not sell Bright Coke Tin cheapest Terne Plates or Black Plate or Taggers Tin at prices lower than may be authorized from time to time by a majority of the parties hereto in meeting assembled.

"SECOND:—That they will assist in ascertaining the prices at which imported plates can be bought, and that they will communicate to the Secretary of the Tin Plate Association, who shall be the executive officer of the parties hereto, and for the purposes of this Agreement, for the use of the Price Committee as much information as they can give consistently in regard to sales, and prices made by importers and home manufacturers.

"THIRD:—That they will authorize said Price Committee to report to the general meetings of the parties to this Agreement, on the basis of the information obtained an uniform base price on Coke Plate, cheapest Ternes, Black Plates and Taggers Tin, the differentials in weights including crosses, a schedule of what shall be considered odd sizes and the advance charge for same, all of which shall rule in the different markets of the United States when adopted by any meeting of the parties hereto.

"FOURTH:—That when sales are made for delivery at points not designated, or for shipments diverted from points originally designated, delivered price shall in no case be less than established in manner provided herein and in force at time of such sale.

"FIFTH:—Meetings of the parties hereto shall be held at periods not longer than ninety (90) days, and can be held at any time on the call of the Secretary.

"SIXTH:—This contract is to be binding from this date and to remain in force until Tuesday, December 22nd, 1896, when a general meeting shall be held and until such later date as any party or parties hereto may through some owner or officer personally present at a general meeting signify his or their intention of withdrawing from the arrangement provided by the agreement.

"IN WITNESS WHEREOF, we subscribe our name this eighteenth day of November, 1896."

MR. LINDABURY: That is, it was to continue thereafter until some of the members withdrew?

MR. CORNEAU: Yes, withdrew and announced his intention at a general meeting.

By MR. CORNEAU:

Q. Do you know whether or not at any general meeting any member subsequently announced his intention to withdraw from such an agreement?

A. No. I had forgotten all about that. I do not remember about withdrawing, because I had forgotten about the whole thing. Of course, I acknowledge my own signature.

Q. The Beaver Tin Plate Company was sold, or its property or stock was sold, to the American Tin Plate Company, was it not?

A. Yes, sir.

Q. How did that sale happen to be made?

A. We were asked for an option on our plant, which we gave. It was to be bought in cash or stock or both, at our option, and we were notified I think perhaps thirty to sixty days after we gave the option that the option would be accepted.

Q. Who asked you for the option?

A. There was a syndicate which was formed by the Moore Brothers, and I think Judge W. H. Moore was the one who asked for the option and we gave him the option, and he notified us when it was accepted.

Q. Had you made any effort to sell the Beaver Tin Plate Company to anyone else at that time?

A. No, sir.

Q. Were you contemplating going out of business or selling out to anyone?

A. No, sir.

Q. Was your business in a prosperous condition?

A. Yes.

Q. What was the capital invested in your company?

A. The original capital was $150,000, and I think at the time we sold out we had probably accumulated through profits, $100,000 more. So that the book valuation was about $250,000 when we sold out, as near as I can remember, speaking simply from memory.

Q. Do you recall the cash price at which you sold?

A. It was between $300,000, and $400,000.

Q. Which amount was it nearer?

A. It was nearer to $300,000 than to $400,000.

MR. LINDABURY: I did not understand how long he had been accumulating that $300,000.

THE WITNESS: I was not asked that question.

By MR. CORNEAU:

Q. You might state that, if you will?

A. Four years.

Q. You say that price was payable either in cash or stock?

A. In either way, yes.

Q. Will you detail it a little more. In case you took all stock, what would the price be?

MR. SEVERANCE: Was this in writing?

THE WITNESS: Yes.

MR. SEVERANCE: We object, as the writing itself would be the best evidence.

MR. CORNEAU: I served notice to produce all these options last Saturday. The latter stated it should be tomorrow morning. We are putting on Mr. Bray out of order now. If you are going to produce that we can take out any evidence that it is thought would be incompetent.

MR. SEVERANCE: I do not think we have any copy of this.

By MR. CORNEAU:

Q. Have you any copies of that option?

A. No, sir.

Q. Do you know where the original is?

A. We signed the option and turned it over to the people we gave it to. We did not reserve any copy of it. We may have had a copy at the time, but we closed that company out when we sold out to the tin plate company.

MR. SEVERANCE: Did the option run to Judge Moore?

THE WITNESS: No; to a syndicate.

MR. SEVERANCE: It did not run to the American Tin Plate Company?

THE WITNESS: No, sir.

MR. SEVERANCE: Then, of course, we could not produce it. We are not the syndicate.

By MR. CORNEAU:

Q. Do you know where the copy of that option is?

A. No.

Q. Will you please continue and tell us in detail what the arrangement was in case you should take stock instead of money?

A. In case we took stock we would get one share of preferred and one share of common for each $100.

Q. Of cash consideration?

A. Cash consideration. In case we took money, we got cash.

Q. That is, stock two for one, par value?

A. Yes, par value.

Q. While you were chief engineer of the American Tin Plate Company, Mr. Bray, state whether or not any plants that had been previously acquired by the American Tin Plate Company were dismantled and closed down?

A. Yes; some were dismantled.

Q. Can you tell us what those plants were?

A. If you can read them off I can tell you better.

Q. Perhaps that would be the better way.

A. During what period? During all the time I was chief engineer?

Q. Let us take the first two years. You were chief engineer——

A. I was chief engineer from the start. It is a little hard for me to answer that from memory. I may make some mistake.

Q. The Aetna Standard Iron & Steel Company Tin Plate Works, Bridgeport, Ohio. State whether or not that was closed down?

A. That was a special sale. The Aetna Standard Iron & Steel Company did not sell anything but their machinery. They had a plant which they wished to operate, and they leased a part of their plant. They could not divide it. It was a peculiar proposition, so that they could not divide it, and they leased a part of it and sold a part of the machinery. They did not sell any real estate. The arrangement was very unsatisfactory and that machinery, after that lease expired, was moved away. At the time the American Tin Plate Company was formed the Aetna Standard Iron & Steel Company was not in a position to give an option on its tin plate plant because they made tin plate and made other things in the same building, the same engine that ran the tin mill running a bar mill; they could not divide it. It would have been an impossibility to have divided it. So they had some arrangement of leasing it, which I cannot give you definitely.

Q. They leased the right to use it, I understand.

A. I cannot tell you exactly. There was something of that kind.

Q. And bought the machinery?

A. Bought the machinery, yes, and the machinery was finally removed and taken to another plant.

Q. About when, if you can recall?

A. I think about two years after the formation of the company. I can tell you exactly when that was done. That was done when the National Steel Company was formed, because the National Steel Company acquired the Aetna Standard Iron & Steel Company.

Q. The National Steel Company was formed, I believe, in February, 1899. That would be only a few months.

A. I told you I could not tell you exactly.

MR. LINDABURY: Well, it was after?
THE WITNESS: It was after, yes.

By MR. CORNEAU:

Q. Take the Baltimore Tin Plate Company?
A. That was dismantled.

MR. SEVERANCE: You skipped two there. Did you intend to do so? Are you taking them in order?
MR. CORNEAU: I was following another list.
MR. SEVERANCE: All right. Go ahead.
MR. CORNEAU: I have a list of those that I understand were closed.
MR. LINDABURY: Are they arranged according to the bill?
MR. CORNEAU: They follow substantially the bill, I think.
MR. SEVERANCE: You did not ask about the American.
MR. CORNEAU: They are alphabetically arranged.
MR. SEVERANCE: You asked only about the Aetna Standard and the Baltimore.

By MR. CORNEAU:

Q. Yes. I asked about the Baltimore.
A. That was dismantled.
Q. Can you recall when that was?
A. I think it was pretty early in the game; probably the year after.
Q. Do you recall about how many mills the Baltimore Tin Plate Company operated?
A. I think that was a four mill plant.
Q. To go back to the Aetna Standard Iron & Steel Company; do you know how many mills they operated?
A. As I told you about the Aetna Standard, they made black plate on mills that they also made sheet iron on. We did not acquire their mills; but we did acquire their tinning capacity, their finishing capacity, the machinery for the finishing capacity, but no real estate.
Q. Can you tell us what that would be in mills?
A. I think that was the equivalent of about six mills.
Q. And Baltimore you think was four mills?
A. Three or four.

Q. Were all of those mills of the Baltimore Company dismantled?

A. They were dismantled and the machinery that was good was taken to other places.

Q. Take the Blairsville Rolling Mill & Tin Plate Mill?

A. That was dismantled. It was a two mill plant.

Q. When was that?

A. I do not know the year exactly.

Q. There were two mills and both mills were dismantled?

A. Yes.

Q. Take the Britton Rolling Mill Company, of Cleveland, their tin plate works.

A. That was merely a dipping plant. That was dismantled.

Q. Completely dismantled?

A. Yes.

Q. About when?

A. I am making a lot of mistakes in these dates, because I have not refreshed my memory, but I would say a couple of years.

Q. It was all within a couple of years, was it?

A. Yes.

Q. Can you recall whether or not the Canonsburg Iron & Steel Company's tin plate works were dismantled?

A. That plant was sold to a competitor. It is going now. That is John M. Budke.

Q. Can you recall when that was?

A. Yes. That plant was sold just after we moved to Pittsburg, about 1901. It was sold to the previous owners.

Q. Can you recall about how many mills there were in that?

A. I think that was an eight-mill plant.

Q. Can you recall whether or not the Cincinnati Rolling Mill & Tin Plate Company——

A. (Interposing.) That was dismantled.

Q. How many mills did they have?

A. I think they had four.

Q. Were all these mills dismantled?

A. Yes. When you speak of dismantling, you mean taking down the machinery?

A. Yes, and discontinuing?

A. As a general rule I think the machinery was used in other plants. When it was good it would be taken down and used in other plants.

Q. State whether they discontinued operations in the plant?

A. Yes, I understand.

Q. The Great Western Tin Plate Company. Do you recall about that?

A. Yes; that was dismantled in the same way.

Q. Do you remember how many mills they had?

A. I think that was a four-mill plant; either a two-mill or a four-mill plant, I am not sure which.

Q. Do you recall when that was dismantled?

A. About 1901, or along about in there.

Q. You said you thought that was a four-mill plant according to your best recollection?

A. Yes; it was a four-mill plant, I think.

Q. That was the Great Western. The Irondale Steel & Iron Company, of Middletown, Indiana?

A. Yes. That was dismantled.

Q. Do you recall how many mills it had?

A. Four mills. I am a little hazy on the number of mills in some cases.

Q. I ask you for the purpose of refreshing your recollection whether it was six mills?

A. It may have been six mills. If you have it down there six mills, it was probably six.

Q. The Johnstown Tin Plate Company?

A. That was dismantled.

Q. How many mills did they have?

A. Two or three.

Q. And when was that dismantled?

A. I think that came within a few years of the formation of the Tin Plate Company.

Q. Marshall Brothers & Company, of Philadelphia?

A. That was dismantled within about the same period.

Q. How many mills did they have?

A. Six mills.

Q. Neshannock Tin Plate Company. What do you know about that?

A. That was dismantled.

Q. How many mills did they have?

A. Six mills.

Q. When was that dismantled?

A. About three years after the formation of the Tin Plate Company, somewhere before 1902, I think.

Q. The Ohio River Sheet & Tin Plate Company?

A. That was dismantled. That was a two-mill plant. It was dismantled about two years after the formation of the Tin Plate Company.

MR. SEVERANCE: When was the Neshannock Tin Plate Company dismantled?

THE WITNESS: I would say about three years after the formation of the Tin Plate Company.

By MR. CORNEAU:

Q. Wallace, Banfield & Company.

A. That was dismantled.

MR. SEVERANCE: Before you go into that, I would like to ask how large that Ohio concern was?

THE WITNESS: A two-mill plant.

By MR. CORNEAU:

Q. You say that the plant of Wallace, Banfield & Company was dismantled?

A. Yes. I think that ran for four years. I think the corporation had that for a little while. That was a four-mill plant.

Q. The Washington Sheet & Tin Plate Mill, Washington, Pennsylvania.

A. That was dismantled.

Q. How many mills did they have?

A. I think that was a six mill plant.

Q. Let me see if you recall about some others. I thought you were speaking at first with reference to the first few years only, and therefore I only named certain companies.

Do you recall whether or not the Atlanta Sheet & Tin Plate Company was dismantled?

A. Yes; that was dismantled.

Q. How many mills did that have?

A. I think it was a six-mill plant.

Q. About when was that dismantled?

A. I think about 1900 or 1901, or along in there.

Q. There was some concern at Anderson, Indiana?

A. Yes.

Q. Do you know what that was?

A. Have you not one under "Anderson Tin Plate Company"? It was owned by the National Tin Plate Company.

MR. SEVERANCE: They have it at Monessen and also at Anderson.

MR. CORNEAU: I could not find it.

By MR. CORNEAU:

Q. Was that dismantled?

A. I do not think so.

Q. Do you know about the Champion Iron & Steel Company of Muskegon, Michigan?

A. Yes; that was dismantled.

Q. How many mills did it have?

A. I think that was a six-mill plant.

Q. Do you recall about when it was dismantled?

A. About 1902.

Q. Do you recall when it was acquired?

A. It was not run very long. It was acquired along in 1900, sometime after we moved to Pittsburg. We did not run it very long.

Q. How about the Cumberland Steel & Tin Plate Company?

A. I think that was sold to N. G. Taylor & Company.

MR. LINDABURY: Sold to a competitor.

THE WITNESS: Yes.

By MR. CORNEAU:

Q. How many mills did it operate?

A. Four.

Q. When was it sold, according to your recollection? By the way, are you certain it was sold?

A. There was one of those mills in that district that was sold, and I think that was the one. It is being run today by N. G. Taylor & Company.

Q. How about the Ellwood Tin Plate Company?

A. That was dismantled.

Q. About when?

A. About 1902, I guess. That was a six-mill plant.

Q. The Falcon Tin Plate and Sheet Company?

A. That was dismantled about 1904.

Q. How many mills did it have?

A. Six mills.

Q. How about the Hamilton Company?

A. That was a two-mill plant and was dismantled. I do not think it was run a year. It was very shortly after the company was formed.

Q. How about the Reeves Iron Company, of Canal Dover, Ohio?

A. That was dismantled.

Q. Do you remember how many mills they had?

A. Six mills, but I do not know the year.

Q. Sommers Brothers, Brooklyn?

A. Yes, that was dismantled. In that Sommers Brothers mill they never expected to run it when they purchased it. They just bought the machinery. The seller, was a can manufacturer, wanted the ground, and they just moved the machinery.

Q. How many mills did they have?

MR. LINDABURY: One moment, please. Let me hear what that statement was.

THE WITNESS: I say the Tin Plate Company merely purchased the machinery. Sommers Brothers wanted to use their ground for an extension of their can factory, and we bought the machinery and moved it away.

MR. LINDABURY: They did not have any more use for it?

THE WITNESS: No, they could not run it profitably when

we bought it, and they sold us its machinery and used it somewhere else.

By MR. CORNEAU:

Q. The Star Tin Plate Company, of Pittsburg?

A. The machinery was taken out of the plant about 1905. The building still stands.

Q. About how many mills did they have?

A. Eight mills.

Q. The Stickney Company, of Baltimore?

A. That was dismantled.

MR. LINDABURY: Which one is that?

THE WITNESS: The Stickney.

MR. CORNEAU: You do not find it in that list. There were two companies omitted from the bill—the Stickney and the Sommers Brothers. I think that was stipulated later, was it not?

MR. LINDABURY: We never heard of it?

THE WITNESS: I do not think either of those plants was operated by the Tin Plate Company. They were both practically inoperative when we bought them.

MR. SEVERANCE: The Tin Plate Company bought the machinery, did they?

THE WITNESS: Bought the machinery and moved it away.

By MR. CORNEAU:

Q. Will you please state, Mr. Bray, whether or not the agreement or option, whatever it was, that your company executed at the time of the sale to the American Tin Plate Company contained any provision with respect to whether or not the officers of that company should re-engage in the tin plate business?

A. Yes, sir.

Q. What was the provision?

A. That provision was that you were not to engage in the tin plate business within a radius of 1500 miles of Chicago inside of a period of years, which I think perhaps was ten years. That is my recollection of it, as near as I can give it.

Q. To whom did that extend?

A. To the syndicate.

Q. I mean to say, to what officers of your company did that provision apply?

A. We only had two officers, the president and secretary and treasurer. That was to myself and to the secretary and treasurer, Mr. Scott.

Q. And to any one else connected with the company?

A. No.

Q. Did you ever see the agreements with any of those other companies about which we have been speaking that went into the American Tin Plate Company?

A. No, sir.

Q. Mr. Bray, did you attend what were known as the Gary dinners?

A. Yes, sir.

Q. About when did those dinners start?

A. I think it was in the fall of 1907?

Q. That is the earliest dinner that you recall attending?

A. That is my recollection of it.

Q. And during how long a period did you continue to attend those dinners?

A. Until the time I resigned my position, which was December 31st, 1908. Any of those dinners that were held between those two periods I attended.

Q. Do you recall about how many were held?

A. No; I do not. There was no regularity about it; there was no special time. I would say five or six.

Q. Would you say whether or not at the time of the first dinner some sort of organization of committees was made up?

A. No; there was no organization at first. In fact, my recollection is that it was merely a dinner at which there were speeches from different gentlemen in regard to the condition of business and the financial condition of business. And the financial condition was a very serious thing then. That was talked about a good deal; and they talked about the desirability of frankness between us in order to meet the financial condition.

Q. Were you not a member of the committee on sheet and tin plate?

A. Yes; I was a member of that committee.

Q. And when was that committee appointed?

A. I think perhaps there may have been a general committee appointed some time.

Q. That is what I am getting at.

A. But I do not know about that. I do not recall just how it was appointed, and I think that general committee appointed these other committees.

Q. About how soon after the first Gary dinner did that occur?

A. Well, I could not say. I would not be surprised—I suppose it was shortly after; I do not know definitely the time.

Q. Do you recall who else was on the committee besides yourself?

A. The sheet committee?

Q. I am speaking now of the committee on sheet and tin plate.

A. Mr. Scott, the president of the La Belle Iron Company and the president of the Youngstown Iron, Sheet & Tube Company; I do not remember his name.

MR. BOLLING: Mr. Campbell?

THE WITNESS: Mr. Campbell. Mr. Scott and Mr. Campbell.

By MR. CORNEAU:

Q. Did you state where he was from?

A. Youngstown, Ohio. Mr. Scott was from Steubenville, Ohio.

Q. Are they all the members of that Committee whom you can recall?

A. Yes, sir; that is all I remember now.

Q. There were one or two other members, were there not?

A. I do not know. If you can read any of them to me I can tell you whether they were on the committee.

Q. I was trying to see if I had a list of those members, but I do not find it now. How often did this sheet and tin plate committee meet?

A. I do not recall this committee having one meeting.

Q. Its having one, or its having more than one?

A. I do not recall of its having even one meeting.

Q. Do you recall meeting any of these gentlemen who were on the committee?

A. Oh, yes.

Q. Informally at any time?

A. Oh, we met frequently.

Q. And where?

A. Well, we met anywhere; at the club; anywhere you might meet informally. We never met by appointment that I recall.

By Mr. Lindabury:

Q. Do you mean by informally that you all met together?

A. No; I say occassionally I might meet one or two of those gentlemen at the Duquesne Club.

By Mr. Severance:

Q. You never met them pursuant to appointment?

A. No, sir.

Q. As a member of the committee?

A. No, sir.

By Mr. Corneau:

Q. Did you ever meet around at any of the New York Hotels?

A. No; no; I always went to the club here.

Q. When you met in this way, did you discuss prices?

A. Oh, yes, frequently.

Q. Did each of you announce what his purpose was?

Mr. Severance: I think I shall object to the witness being led any more. Let the witness testify.

By Mr. Corneau:

Q. State what you did at these meetings.

A. I said we did not have any meetings.

Q. You said you met informally. State what you did when you met together.

A. I said informally we would meet and we would discuss any subject that would be of mutual interest to us.

Q. Prices, among other subjects, you say?

A. We would tell what our prices were.

Q. Just tell us what you would say with respect to prices at these times.

MR. SEVERANCE: To whom?

MR. CORNEAU: To each other.

A. If I wanted to discuss prices with Mr. Scott, for instance, I might say to him: "How is your trade? Are you getting plenty of business? How do your customers take the prices? Are they satisfied? Can you sell your stuff at that price? Do you think the volume is satisfactory, or do you think a lowering of the price would increase the volume?" That is all; general questions like that.

By MR. CORNEAU:

Q. Did you ascertain what his price was?

A. The prices were stated. We knew what his price was.

Q. How did you know that?

A. He stated what his price was.

Q. By stating to each other?

A. Yes, sir.

Q. Was that your price?

A. The same price, yes, sir.

Q. Your prices were in fact the same?

A. The same, yes, sir.

Q. Coming back to the Gary dinners, what was the nature of the discussion at those dinners, generally speaking? Describe them to us.

MR. LINDABURY: Before you get to that, it is now four o'clock.

MR. CORNEAU: Could we not go on a little longer? Mr. Bray wants to get away to-morrow morning.

MR. SEVERANCE: We cannot finish him at any reasonable hour to-night.

MR. LINDABURY: Can you be back on Wednesday?

THE WITNESS: Yes; I can be back Wednesday.

MR. CORNEAU: Very well, then, we can adjourn now.

(Whereupon, at 4 o'clock p. m., the hearing in the above-entitled matter was adjourned until 10:15 o'clock, Tuesday, June 11, 1912.)

SIXTEENTH DAY.

Room 720 Custom House,
New York, N. Y.,

Tuesday, June 11, 1912.

The hearing was resumed at 10:15 o'clock a. m. before Special Examiner Henry P. Brown.

Appearances the same as heretofore noted.

W. P. WORTH,

called as a witness on behalf of the United States, being first duly affirmed, testified as follows:

DIRECT EXAMINATION,

By MR. DICKINSON:

Q. Where do you live, Mr. Worth?
A. Coatesville, Pennsylvania.
Q. What is your age, Mr. Worth?
A. Fifty-six this month.
Q. In what business are you engaged?
A. In the iron and steel business.
Q. Under what name or with what concern?
A. The Worth Brothers Company is our plate concern.
Q. Is that a corporation?
A. That is a corporation.
Q. You speak of the plate concern. What else?
A. The Coatesville Rolling Mill Company.
Q. Is that owned and controlled by the same people?
A. Largely so. That is a firm; it is not a company. It is only a name taken as a firm name.
Q. Are those concerns located at Coatesville?
A. Yes, sir.
Q. How long has the firm of the Worth Brothers Company been in business?

A. I think we incorporated in 1896. We had been there before; I think we started in 1882.

Q. What do Worth Brothers manufacture?

A. Plates.

Q. And what does the Coatesville Rolling Mill Company manufacture?

A. Tubes and sheets.

Q. Wrought iron tubes?

A. Wrought iron tubes.

Q. How long has that concern been in business?

A. We bought that mill at sheriff's sale in 1888.

Q. The Coatesville rolling mill?

A. The Coatesville rolling mill.

Q. Did your company, Worth Brothers, at any time make skelp and market it?

A. That was made at the Coatesville rolling mill plant.

Q. State whether or not, Mr. Worth, you have been familiar throughout this period with the tube business.

A. Iron tubes for about ten or eleven years.

Q. Do you know the Allison Manufacturing Company of Philadelphia?

A. Yes, sir.

Q. Tube mills?

A. Yes, sir.

Q. What did that company make?

A. They were manufacturers of tubes and cars.

Q. Where did they sell their tubes?

A. I guess all over the country.

Q. The American Tube & Iron Company, Middletown, Pennsylvania, what did they make?

A. Tubes and pipe.

Q. Where did they sell their tubes and pipe?

A. I imagine all over the country?

Q. Generally?

A. I think so.

Q. When you say you imagine, are you stating the facts according to your recollection?

A. I do not know anything about their business; I could not tell you anything from facts about their business.

Q. Did you sell in competition with them?

A. No, they had been bought out by the National Tube Company before—

Q. Which one are you speaking of now?

A. The American Tube and Iron Company, Middletown. They had been bought out and become a part of the National Tube Company before we started the manufacture of tubes.

Q. Had you had any acquaintance with the tube business before that?

MR. LINDABURY: They could not very well have been in competition then.

MR. DICKINSON: That is an argument which it is perfectly legitimate for you to make on cross-examination.

A. What was your last question?

By MR. DICKINSON:

Q. I say, had you had any familiarity with the tube business before that?

A. No; not with the tube business.

Q. With the pipe business?

A. No; we confined our operations entirely to the manufacture of skelp at that time.

Q. Skelp?

A. Yes; we had not started to weld it into form.

Q. What was skelp used for?

A. For the manufacture of tubing and pipe.

Q. Did or did not that bring you in touch with the people who were making skelp and who were using skelp in the manufacture of pipe?

A. Yes; but not with the sale of the finished article.

Q. Did it bring you into the markets where it was sold?

A. No; not in the markets for the sale of pipe and tubes, only in the markets for the sale of skelp.

Q. Who were your competitors in the sale of skelp?

A. The Parkesburg Iron Company were manufacturers of skelp at the time, and the Crum Lynne Iron Company was another, the Seyfert Company of Reading. They were some of the concerns that I recall that were manufacturers of skelp at that period.

Q. When you became a manufacturer of tubes, who were your competitors?

A. The Reading Iron Company, Spang, Chalfant & Company, the Tyler Tube & Pipe Company, the National Tube Company. There was another concern, I think, now owned by the Allegheny Iron & Steel Company, and still another concern of which I do not remember the name; I think just about Pittsburg somewheres.

Q. At that time did you not come in competition with the National Tube Company?

A. Yes; sold in competition with them then.

Q. Where?

A. Wherever the small sizes of tubes, principally locomotive tubes, were sold, I guess.

Q. What part of the country was that?

A. All over the country.

Q. All over the United States?

A. Yes.

Q. Were any of those companies that were taken into the National Tube Company and which continued manufacturing after they were taken into the National Tube Company competitors of yours in any of those goods?

A. All of them that were manufacturers of iron tubes.

Q. I will call over certain names, and if I call a name that was a manufacturer of iron tubes and a competitor of yours, please state the fact, will you?

The Allison Manufacturing Company.

A. Yes; they were competitors.

Q. The American Tube & Iron Company?

A. I do not think they were making iron tubes at the time.

Q. Chester Pipe & Tube Company?

A. I do not think they were making iron tubes at the time.

Q. Cohoes Tube Works?

A. No.

Q. Delaware Iron Company?

A. I do not know whether they were in operation at that time. I think that mill was stopped about that period.

Q. The National Galvanizing Works?

A. I do not know the concern.

Q. The Ohio Tube Company?

A. I do not know that concern.

Q. The Oil Well Supply Company's Continental Tube Works?

A. I do not think they made tubes. I think it was casing that they made.

Q. The Elba Iron Works?

A. I do not know that concern.

Q. The Pennsylvania Tube Company?

A. I think they made principally pipe.

Q. Did you make pipe?

A. No.

Q. The Riverside Iron Works?

A. I do not think they manufactured any charcoal iron goods.

Q. Charcoal iron goods?

A. That is our product.

Q. How about the Oil City Tube Company and the Syracuse Tube Company?

A. I do not think the Oil City Tube Company manufactured charcoal goods. The Syracuse Tube Company we were in direct competition with.

Q. So that, as a matter of fact, you were in competition with very few of these companies that I have named??

A. Yes.

Q. You have named all of those with which you were in competition?

A. I have answered as to all the names that you have read to me.

Q. Of the number named to you, you have named those who were your competitors?

MR. LINDABURY: You mean, a little while ago?

MR. DICKINSON: No; in the list that I called off. He testified as to those who were competitors.

MR. LINDABURY: But I think he previously gave the list of his competitors?

MR. DICKINSON: No; I do not think so.

MR. LINDABURY: Very well. I mean when he began with the Reading Iron Company he gave half a dozen.

By Mr. Dickinson:

Q. Mr. Worth, state whether or not there was a Lap Weld Boiler Tube Association, and whether or not your firm became a member of it, and if so about what time?

A. There was a meeting of some of the charcoal iron tube makers. There were meetings held at stated periods of some of the charcoal iron manufacturers. I think I attended those meetings about 1902, possibly. I will not be certain as to the year, but I think it was about that time.

Q. How long did you continue to attend?

A. Possibly two years or two years and a few months.

Mr. Lindabury: About when did you say?

The Witness: 1902, when I started to attend them.

By Mr. Dickinson:

Q. Please state who were the members of this association when you joined it in 1902?

A. I do not know that you can call it an association. It was a meeting of men who were interested directly or indirectly in the manufacture of these tubes. I do not know that you can term it an association.

Q. Suppose you call it a gathering. Did you get together?

A. We got together occasionally.

Q. From time to time?

A. From time to time.

Q. Who got together? Tell us who got together at those meetings?

A. I think, as I recall it, from five to eight people.

Q. State who the people were and what concerns they represented?

A. I think Mr. Timmons was generally there.

Q. Whom did he represent?

A. He was from Syracuse.

Q. Who else was there? Just give the names.

A. Mr. Worcester.

Q. What is his first name?

A. Edward.

Q. Whom did he represent?

A. He represented the National Tube Company, I understand.

Q. Who else?

A. Then there was Mr. Smink, of Reading.

Q. Whom did he represent?

A. He is President of the Reading Iron Company, I think; and Mr. Chalfant, of Pittsburg; of Spang, Chalfant & Company. I think Mr. Converse attended a number of meetings.

Q. Representing what?

A. I do not know just what he did represent. He was connected with the United States Steel Company. I think he is a director of the United States Steel Company.

Q. What Mr. Converse was that? Please give his initials.

A. E. C. Converse. I think at one or two meetings Mr Donner possibly attended.

Q. Whom did he represent?

A. He was one of the sales agents, I think, of the National Tube Company. There may have been other men at different times. I do not recall them.

Q. Did this meeting, or gathering, or whatever you choose to call it, have a secretary?

A. No. I think that Mr. Timmons took charge of ordering the dinners, and he paid the bills. We all sent him some money, and I think he paid the bills. I do not know whether you can call that a secretary or not. He acted more like a secretary and treasurer, possibly. I guess it was more as a treasurer than anything else, because he paid for the dinners.

Q. State whether or not you had any understanding with those who were there as to percentage of allotments?

A. Yes; they were talked over.

Q. Was there any understanding as to what percentage each one would have?

A. I think there was an understanding reached as to what each mill ought to have.

Q. Was there any understanding reached as to whether or not there would be any penalty if any mill exceeded its allotment?

A. There were certain amounts paid on overshipments

exceeding those allotments, and that, as I recall it—it has been a good many years ago, and I am not entirely familiar with it—as I recall it there were certain penalties for overshipments paid possibly to Mr. Timmons, out of which he paid for the dinners, and different presents to the members who attended the dinners, and then anything that was left I think was divided amongst the members in proportion to their allotment, or in proportion to what the shipments exceeded.

Q. State whether or not periodical reports of tonnage were made?

A. I think so. Yes, that is correct.

Q. How often were those reports made?

A. I think it was every thirty days, although it may have been quarterly.

Q. What understanding, if any, did you have in regard to prices?

A. Prices I think were discussed at times, but I do not recall that there was any positive agreement as to prices.

Q. You had no written agreement as to prices?

A. No; I think not.

Q. Did you have an understanding before you left as to what the prices would be?

A. We would probably understand about what the other mills expected to charge. The discussions of prices were more as a guide as to what the trade would stand, after hearing the conditions of the market, and our mills.

Q. State whether or not the guide was a common one, and was the same as to all of you?

A. I presume that was generally followed. I know that we were in such condition that we could not follow any particular price at that time. We had to meet our customers' conditions very largely.

Q. Mr. Worth, state whether or not there was formed about November, 1900, a plate association, or a gathering of people who were engaged in making that product?

A. I received an invitation to meet a party of gentlemen

in New York, I think it was during the summer of 1900, to discuss the prices of plate and general plate conditions.

Q. Who gave that invitation?

A. I got that invitation from a Mr. Ogden Hoffman, who is since deceased.

Q. Who were at that meeting?

A. Mr. Schwab was there, and Mr. King; I think Mr. Park, and I think Mr. Huston. I cannot be positive about any two men there but Mr. Schwab and Mr. King. I remember very well that they faced the others. They were sitting with their backs toward the window, and the rest of us were facing them, and I remember those two men very well. I think Mr. McCauley, of Harrisburg, since, deceased, was there.

Q. I will ask whether or not any question arose there as to the percentage that the Illinois Steel Company ought to have in allotments?

A. I think that was at a subsequent meeting, a second meeting.

Q. Oh, that was at another meeting. So you have given the names of those who were at the first meeting, so far as you recall?

A. Yes.

Q. When did the next meeting take place?

A. I think about thirty days later.

Q. State who were at that meeting?

A. Mr. Schwab was there, and Judge Gary was there.

Q. Judge E. H. Gary?

A. Yes. And Mr. King, and I think Mr. Huston.

Q. What Mr. Huston was that?

A. Mr. Huston of the Lukens Iron & Steel Company.

Q. State whether or not at that meeting any question arose as to the percentage that should be allowed the Illinois Steel Company; and, if so, what occurred?

A. Yes; there was a general discussion at that time, I think, of the percentages all the way through of the different mills.

Q. Do you recall any special question as to any demand or claim made by the Illinois Steel Company?

A. I think we all tried to get our percentages as high as

possible. I recall that the Central asked for about 10 per cent, and I think the Illinois Steel Company asked for 15 per cent.

Q. Who represented it?

A. Mr. McCauley represented the Central Iron & Steel Company, and Judge Gary, I think, represented the Illinois Steel Company.

Q. Who were the members of that plate association, that is to say, what concerns?

A. Carnegie Steel Company, Illinois Steel Company, The Central Iron & Steel Company, Jones & Laughlin, Otis Iron & Steel Company, Crucible Steel Company of America, Glasgow Iron Company.

Q. Did you mention the Otis?

A. Yes.

Q. The Tidewater?

A. The Tidewater is another.

Q. Lukens?

A. I mentioned Lukens, did I not?

MR. CORNEAU: Not in this connection.

By MR. DICKINSON:

Q. I do not think you said Lukens.

A. Well, I intended to.

Q. The American Steel & Wire Company?

A. Yes, that is right; that is another one.

Q. State whether or not an agreement was made as to the percentages that would be allowed the various members of that association as to the plate that should be sold by them?

A. I think there was some understanding arrived at, but I do not recall having signed any agreement.

Q. But do you recall that there was an understanding and agreements?

A. Yes; I think there was an understanding reached.

Q. Was there an association formed?

A. Well, there was an understanding reached; I do not know how far matters would have to go to constitute an association, but there was an understanding reached, but I do not recall having signed any papers.

Q. Did they reach an understanding that they would appoint a commissioner, or did they not?

A. Yes, sir, I think there was a commissioner to keep a memorandum of the records.

Q. Did they reach an understanding that they would make reports to the commissioner?

A. There were reports made.

Q. Did they reach an understanding that there would be an allotment as to percentages of plates?

A. That is right.

Q. And these allotments were fixed as to each member of the association?

A. Yes, sir; that is right.

Q. State whether or not they reached an understanding that they would make reports from time to time to this commissioner.

A. That is right.

Q. Did they or did they not agree to pay into the association a certain amount of money?

A Yes, sir; there was a small amount of money paid in as a binder of good intent, think, on the part of those present to follow as far as possible the guide as to prices.

Q. Did they reach an understanding as to the prices at which they would sell?

A. They discussed prices from time to time.

Q. State whether or not they did agree what the prices would be.

A. Yes; they discussed prices from time to time and stated what they ought to be, considering all conditions.

Q. And as to what they would sell at?

A. Yes; they expected to sell at certain prices.

Q. I ask you whether or not they had a schedule of prices?

A. There was a fixed base, I think.

Q. A fixed base?

A. Yes.

Q. State whether or not that association operated under that agreement, and if so, for how long?

A. I think that start was made in the latter part of 1900, and it must have run along probably until 1904 or the early part of 1905, as I recall it.

Q. You have spoken of two meetings and who were present at them. Now state from time to time at the subsequent meetings who were present representing the various companies as I will call them off to you.

For instance, the Carnegie Steel Company?

A. I think Mr. Bope was always the man who was present.

Q. Was anyone else there representing that company at any time?

A. Yes; sometimes there were other people.

Q. Who were they?

A. I recall Mr. Dinkey has been there at times; I think Mr. Corey was there at one or two meetings, and I think Mr. Schwab attended until after the formation of the Corporation, and then I think that work was shifted off on Mr. Bope. I guess he was busy with other matters.

Q. Who represented the Illinois Steel Company at these meetings before the formation of the Corporation?

A. Judge Gary attended one or two of those meetings, but I think that work was soon pushed off on Mr. Buffington, as I recall it.

Q. Who was Mr. Buffington?

A. At that time I think he was vice-president of the Illinois Steel Company.

Q. What is he now?

A. I think he is president of the Illinois Steel Company, is he not?

Q. Before the formation of the Steel Corporation, who represented the American Steel & Wire Company at those meetings?

A. Mr. Palmer may have been at a few of them; I think likely he was; but Mr. Hirsh I think usually was.

Q. How do you spell his name?

A. H-i-r-s-h, I think it was; I do not recall it.

Q. You have mentioned the names of those who participated in this agreement. What percentage did they represent of the output of the plate products of the United States at that time?

A. Which?

Q. All those that were in that plate agreement.

A. I do not know; I really do not know. There were some

mills outside of it. There was the Carbon Iron & Steel Company at Pittsburg that was operating entirely independently, and the Allegheny Iron & Steel Company at Portsmouth, and La Belle; I think the Lackawanna at that time was not making plates.

Q. Have you mentioned the names of all that you know that were making plates that were not in that agreement.

A. The Alan Wood Iron & Steel Company. They made some lighter plates.

Q. Taking the combined output of those and comparing it with the combined output of the others, what would you say was the relative proportion?

A. Possibly the men that gathered together occasionally might represent 90 or 95 per cent of the plate output of the country.

Q. You have heard of certain convivial occasions spoken of as the Gary Dinners, have you?

A. Yes.

Q. We will speak of them as Gary Dinners, because they have been referred to in that way, and not as any opprobrious epithet at all, but simply to designate particular gatherings. Did you ever attend the so-called Gary Dinners and luncheons?

A. I did.

Q. Where did the luncheons take place?

A. They were held at clubs, usually.

Q. At what times were they held? Were they held more or less frequently than the dinners?

A. No; I guess not. I guess there was about the same number of each, as far as I can recall.

Q. About the same number of each?

A. Possibly.

Q. Which preceded the other, if there was any regular order?

A. There was no order of procedure.

Q. Did they come about the same time with no reference to each other?

A. No; I think with no reference to each other?

Q. So there were dinners occasionally and luncheons occasionally?

A. Occasionally.

Q. And those luncheons were usually at clubs?

A. Clubs, yes.

Q. State whether or not you attended a luncheon on February 18, 1909, and, if so, where that took place and who was present.

A. I think that was the date that there was a luncheon at the Railroad Club, as I recall it.

Q. In a room at the Railroad Club?

A. Yes, sir.

Q. Who were present there?

A. I could not tell you about that; there was quite a number of people.

Q. Tell some of those who were present. Was there anybody present there representing the United States Steel Corporation or connected with it in any way?

A. Yes, sir; Judge Gary was there.

Q. Was there anybody there representing——

A. Willis King, as I recall it, was there.

Q. That is Willis King of Jones & Laughlin?

A. Yes, sir. I think possibly Mr. Powell Stackhouse was there.

Q. Was Mr. Felton there?

A. I think so; yes, I think I recall Mr. Felton was there.

Q. Was Mr. William E. Corey there?

A. I do not recall whether he was there or not. I think he was, but I will not be positive of it.

Q. And if anything was said there with regard to prices or anyone having cut prices or that a policy would be adopted with respect to it, please state fully what was said.

A. Well, Judge Gary had always been a man for keeping a steady market. He had adways suggested that thought in former meetings, and at that time he thought that the market conditions were such that it might be better to reduce prices, and he made a statement to the others that they would pursue a policy of reducing prices.

MR. LINDABURY: They?

THE WITNESS: His company; that is, the United States Steel Company, would pursue a policy of reducing prices.

By Mr. Dickinson:

Q. Was anything said previous to that about independents having cut prices?

Mr. Lindabury: I do not think you ought to lead the witness on such a subject.

Mr. Dickinson: I am asking if anything was said; I am not asking what was said.

A. I do not recall anything that was said. I stated in the beginning, in a broad way Judge Gary had always felt that it was a good thing to have a stable market, and at that time he advised us that market conditions and all conditions, general conditions, were such that he felt that his company would probably reduce prices.

By Mr. Dickinson:

Q. Was there any question raised there about independents having cut prices? Was anything said by anybody there about it?

A. I do not remember whether there was anything said at that meeting or not. It was generally known that there was a cutting of prices. I do not think it needed to be mentioned there, because everyone knew it within the trade.

Q. Who called the meeting?

A. I presume we were there by Judge Gary's invitation.

Q. And you all know, at that time, that the independents had been cutting prices?

A. Yes; the trade knew there was a general cutting of prices.

Mr. Lindabury: He did not say independents.

By Mr. Dickinson:

Q. Who had been cutting prices?

A. All the mills, I think. There was a genreal cut in prices.

Q. Had your mill been cutting them?

A. I imagine we were in line with the rest.

Q. I am not asking you for imagination. Do you know whether you had, or had not?

A. I will tell you I cannot give you specific cases, because I would have to look up our books or contracts.

MR. LINDABURY: He had a feeling of that kind.

THE WITNESS: That is my belief.

By MR. DICKINSON:

Q. That is your belief, that you had been cutting prices?

A. I imagine so.

Q. Cutting them from what?

A. From the prices that a short time before, had preceded.

Q. Where had those prices been talked of, if they had been talked of?

A. I think I can explain that better this way: Following the panic of 1907, there was a lowering of prices. We had very poor trade until the summer and fall of 1909, when there was a very active demand and prices were forced up, as a natural consequence, by the demand. Then, in the spring of 1910 the demand had fallen off greatly. The result was there was a general cutting of prices, because there were fewer orders to be had.

Q. Before this meeting which followed this cutting of prices, had the prices been uniform?

A. The list prices had been probably uniform, but the discounts or drawbacks, or whatever you might call it, might not have been uniform.

Q. Was this cutting of which you speak a cutting of the list prices?

A. The cutting established February 18, 1909, was a cutting of the list prices.

MR. LINDABURY: 1909?

THE WITNESS: Was not that 1909, that you said that meetin occurred?

MR. LINDABURY: 1910, I thought.

MR. DICKINSON: No. 1909.

By MR. DICKINSON:

Q. Who established it on that date?

A. Judge Gary said for his company that there would be

a lowering of prices, and, naturally, the rest of us, if we were going to get any business, would have to do the same thing.

Q. State, as nearly as you can, what language he used in regard to the attitude of his company, its previous attitude and the attitude that it was then to assume?

MR. SEVERANCE: What do you mean by "previous attitude?"

MR. DICKINSON: Before the change.

MR. LINDABURY: What he said at this meeting with regard to the previous attitude of his company and its present and intended attitude.

MR. SEVERANCE: No.

MR. LINDABURY: That is the way I understood it, Judge. In other words, what was his speech.

By MR. DICKINSON:

Q. Yes. Tell what he said?

A. I think heretofore we had had some guide—

Q. If you will excuse me, Mr. Worth, I am asking you what Judge Gary said.

A. I am coming to that.

Q. I am not asking you what heretofore you had.

A. I am coming around to that.

Q. All right.

A. I think before that we had had some guide as to prices; as to list prices; as to base prices; and, at that time, I think he decided that the market conditions were such that he did not care to have any guide, and he said he did not want his hands tied in any direction.

Q. He said he did not want his hands tied in any direction?

A. That he did not want his hands tied in any direction, yes.

Q. Before that you had had a guide?

A. Before that we had had a guide.

Q. At that meeting you cut loose from that?

A. There was no guide after that, for some months, I think.

Q. There was no guide after that. Was there or not an open market, after that?

A. You might call it that, if you want to. There was no guide for several months, I think, following that meeting.

Q. State whether or not you were a member of the committee on plates, that either was appointed or got together in some way in connection with the Gary dinners?

A. There were some committees arranged for the different classes of manufactured articles. I had nothing to do with the selection of those committees, but I think my name appeared on one of them. I do not remember whether they were the result of the Gary dinners, or whether they were formed as part of the American Iron & Steel Association, but it is my thought that they were merely subcommittees, a result of the American Iron & Steel Association. I cannot recollect positively about that, but I do not think they were a part of the Gary dinners, at all. I think they were the result of the American Iron & Steel Association.

Q. You do recall that there was such a committee?

A. Yes.

Q. I will ask you whether Mr. Stackhouse was Chairman of that committee?

A. I think I was told that he was. I do not recall the committee, at all.

Q. Do you remember whether Mr. Bailey was on the committee?

A. I do not think I ever attended a committee of that kind.

Q. Did you attend any meetings, informal or otherwise, that were held by producers of plate, from time to time?

A. Oh, yes. We used to meet from time to time at different places, and discuss conditions.

Q. Tell me where you met. Recall some of those meetings and who were present?

A. We had one meeting at the Duquesne Club, in Pittsburg.

Q. When was that?

A. I do not remember the date, at all.

Q. About what year?

A. Let me see.

Q. Was that after this plate agreement ended, or not?

A. I do not think I can fix that. I think it was possibly smmething over two years ago. Three years ago.

Q. It was, then, after the plate agreement ended, was it?

A. Oh, yes.

Q. That is what I asked.

A. Oh, yes.

Q. Who were at that meeting?

A. Mr. King I remember, again, very well. I do not recall any others. I think very likely Mr. Bope was there, but I do not know positively.

Q. Was Mr. Huston there?

A. No; I do not remember whether he was there or not. He attended, usually, when he was not away from home; but at times he was away.

Q. How did you get together? How did you know that you were going to have a meeting?

A. I think Mr. King wrote and asked me to come out to lunch with him at the Duquesne Club. That is my recollection.

Q. Then the other meetings were held at what time and place?

A. Well, there was one, I think, a lunch here in New York, and another one, I think, in Philadelphia.

Q. Who attended the one here in New York?

A. I do not recall who attended that meeting.

Q. Were they producers of plate?

A. Yes; they were plate people, yes.

Q. Were there a number of them?

A. I do not think there were. As I recall it, it was rather a small gathering.

Q. Can you tell what companies were represented at any of those meetings?

A. I think in Philadelphia Jones and Laughlin were represented; the Lukens Iron & Steel Company was represented; the Glasgow Iron Company was represented; the Carnegie Steel Company was represented.

Q. Who represented the Carnegie Steel Company?

A. I think Mr. Bope or Mr. Bonner.

Q. Tell us what you did at those meetings, besides having a dinner or luncheon?

A. We would ask the conditions of the order books of the different mills. I think Mr. Bope very generally explained the

condition of their mill, first, that being the largest one. He would say that we had good business on our books, and we know of a lot of business coming up which will make more business for us, and conditions are very satisfactory; or else, if it were the reverse, he would say that. He would say orders are light in the plate department, and we do not know of very much coming up in the near future; and we would be guided, very largely, by the conditions as represented around the table.

Q. Did you get down to the question of prices?

A. I think, in a general way, we would discuss prices as a guide, as to what would be the proper thing, after knowing the condition of the order books.

Q. Would you reach a conclusion as to what the proper thing would be?

A. I think very generally the different members would say: "Well, my order book is such that I feel I will sell for the present at such and such a price."

Q. State whether or not each understood that the other was going to sell at that price?

A. No; there was no understanding that they were positively going to keep that price. Those prices were a guide as to what they would do.

Q. There was no written agreement?

A. No.

Q. There was no penalty?

A. No; there was no penalty.

Q. There was nothing in the nature of a rigid contract?

A. There was no contract; there was no tonnage allotment; nothing.

Q. Was there an understanding that those prices were to continue until information was given of a change?

A. The understanding, I think, was usually that if a man made a statement that he would probably be able to sell at a price, he would likely maintain that price until conditions changed. Of course the next day there might be a very vast change of conditions.

Q. Would you notify the others before making a change?

A. No; I am sorry to say that was not always followed.

Q. I do not remember whether you said that Mr. Stackhouse attended any of those meetings or not?

A. I think he did usually attend, up to the time of his resigning from the Cambria Steel Company.

Q. Do you know what time that was?

A. No; I do not recall.

Q. How about Mr. Bailey? Did he attend?

A. The Central always had a representative, or generally they did. Either Mr. Bailey or Mr. Hall. Mr. Hall was sometimes the man.

Q. Did Mr. Huston attend?

A. Mr. Huston or his man Van Ormer, one of the two were there.

Q. You were always there?

A. I attended them myself.

Q. Mr. Dinkey or some other representative of the Carnegie Steel Company was there?

A. Well, usually Mr. Bope and Mr. Bartel was pretty much always present.

MR. DICKINSON: That is all.

CROSS EXAMINATION,

By MR. LINDABURY:

Q. Mr. Worth, after the associations which existed before the Steel Corporation was formed had been dissolved, at the end of 1904 or the beginning of 1905, as you have stated, was there ever any arrangement or agreement between the manufacturers of steel products that you had a part in, touching either prices or output?

A. No, sir. There was no agreement.

Q. Did you ever have an understanding or agreement after the beginning of 1905, with your competitors in the manufacture of any class of steel by which prices were fixed?

A. Not formally fixed. There were sometimes discussions as to what the general conditions would warrant, and there may have been at times a base price fixed as a guide, as to what those conditions would warrant us to charge.

Q. Nobody ever sold, I suppose, at the base price, did they?

A. Yes.

Q. That was not the selling price, was it?

MR. DICKINSON: Let him answer.

THE WITNESS: Yes. That was a selling price.

By MR. LINDABURY:

Q. Tell what it was. I do not know what you meant by "base price"?

A. That was a selling price. Then there were certain drawbacks and discounts which were allowed, in addition to that.

Q. Each man made his own discount or gave his own drawback?

A. I am afraid that, while it was the impression that we would stick, as far as possible to the base price, as a matter of fact I do not think it was lived up to. We may have left there with the impression that the price would be a base, but I do not think they were lived up to.

Q. With respect to what line of production are you speaking, now?

A. Plates only.

Q. Only with regard to plates?

A. Yes.

Q. Where, if at any place, was there any meeting of the manufacturers of plates, after the association broke up, at the beginning of 1905?

A. Where?

Q. Yes.

A. There were the meetings I referred to a while ago, one at the Duquesne Club, at Pittsburg.

Q. You mean the one at New York, one at Pittsburg and one at Philadelphia?

A. Yes.

Q. These are the ones you mean?

A Yes.

Q. They are the only ones you recall?

A. I imagine there were others here in New York. I do not think there was but one—there may have been more than one—in Philadelphia. I do not recall that. It was a good

many years ago, you know. There were several meetings of this kind held.

Q. Were they informal meetings?

A. They were informal meetings, yes.

Q. They were held at irregular times?

A. Held at irregular times, yes.

Q. When you got together, what did you do at these meetings?

A. We discussed general conditions.

Q. Did you inform each other as to the condition of your respective trades?

A. That is just what I stated a while ago.

Q. You did that, did you?

A. Yes.

Q. You told each other what your sales had been, did you?

A. Especially what our prospects of sales were, as to how much business we had on the books.

Q. As to what your unfilled orders were?

A. That is it; as to what our unfilled orders were, and what we expected to get in.

Q. And the prices you had been getting?

A. The prices we had been getting and the prices we expected to get.

Q. And the prices you expected to get?

A. Yes.

Q. For what purpose did you do that?

A. I think it was so that we might each understand the condition of the other's mills. If one mill was running light, you know, you would naturally expect that they would cut prices considerably, and we might look out for something ahead; whereas, if the mills were all in pretty good condition, and their order books were fairly well filled, and my order book was in good shape, I would know that I had a reasonable prospect of very little cutting ahead by my competitors.

Q. Is information of that kind desirable or necessary in the trade?

A. It is very desirable.

Q. Had you been in the habit of getting that in the earlier days, before you had these friendly meetings?

A. Before the United States Steel Corporation was formed we did.

Q. But before that. How did you get this information in those earlier days, before you had any associations?

A. Before we had an association we did not have so much of it.

Q. But you got some information as to what your competitors were doing, did you not?

A. We got it from our customers.

Q. That is what I mean.

A. Yes.

Q. Did you get information as to the prices your customers were paying?

A. Not very satisfactory information.

Q. But did you try to get information?

A. Yes; that is the only way we could get it, before we met together as manufacturers.

Q. Was it regarded as essential that you should get as much of that information as possible?

A. Very necessary.

Q. You could not carry on your business without it?

A. No; not satisfactorily.

Q. Instead of getting the information from your customers and by rumors, in the old way, I understand that at these friendly gatherings you gave it up to each other?

A. Yes.

Q. Was that a substitute for the old methods of getting information?

A. It was.

Q. I ask you again why you wanted it; why you got it; why you told the others what you were doing, and they told you what they were doing? What was the object of it?

A. We could better arrive at what prices would be proper, after we knew all the conditions.

Q. And was that what you meant by saying that this information was gotten, or was furnished as a guide?

A. That is right.

Q. What did you mean by "as a guide"; as distinguished from an obligation or a bond?

A. Yes. You know, in the Plate Association, it was more binding, of course.

Q. In the earlier days?

A. Yes; but after that was given up, there was nothing binding. There was no pressure, or anything like that. There was no tonnage allotment. The only thing we could do would be to state around the table the condition of our books, and what we expected to obtain.

Q. That is, you laid your cards on the table?

A. That is right.

Q. And when you went away from there was any man bound as to either price or output?

A. No.

Q. Did any man undertake to bind himself as to either price or output?

A. He expected when he left there probably to get the price that was generally talked over as long as conditions were the same; but, of course, those meetings were not very frequent and conditions will change in the iron business over night, you know.

Q. Did any man, so far as you heard, pledge himself for any definite time to any price?

A. No.

Q. At any time? Did that ever occur after these associations broke up?

A. No; I think not; there was no definite period.

Q. Was there any time in your observation when any man left any of these meetings bound at all as to any price or output by any agreement or any promise?

A. There was no agreement; there was no tonnage; there was no forfeit. It was merely a discussion between gentlemen as to the condition of their plants, and what they thought under the circumstances, after getting a true statement of affairs, they would probably be able to charge.

Q. I take it when an important manufacturer, like the Steel Corporation, or the Carnegie Company or Jones & Laughlin, or yourself, made a statement as to your condition and the general state of trade and your idea of what price those circumstances justified, it had its effect or impression upon everybody else?

A. Yes; the buyers would probably learn almost as soon as we left the meeting the condition of the mills, just as we would get it there, and on account of the mill conditions that the manufacturers thought they would be able to get about a certain base price, and I think very generally after that the buyers would contract for fair tonnages.

Q. At one of the meetings you attended and at which Judge Gary was present, you say he made a statement that he was going to be free, and he was not going to be bound. He made that statement more than once, did he not? I do not mean in words, but in substance?

MR. DICKINSON: Let us call for the words. I object to the substance.

MR. LINDABURY: I have a right to the substance. State your objection and we will go on.

A. No; he was not bound, but I think Judge Gary in his former talks had always been for a fixed price and he would be free to tell us about what his company was expected to do, and at that time there was the absence of any price which he expected to charge.

By MR. LINDABURY:

Q. You never heard Judge Gary enter into any agreement as to price, did you?

A. No.

Q. On behalf of his company?

A. Not the United States Steel Corporation.

Q. I am speaking of the time after the Steel Corporation was formed and when he was representing it.

A. No.

Q. On the contrary, you heard him at many of the meetings say that he would not agree as to a price, did you not, or as to output?

A. Yes; I think in part of his speeches. Of course, they are a matter of record.

Q. I mean that happened again and again, did it not?

A. Yes; I think he generally made that statement.

Q. That there would be no agreement as to output or as to price?

A. Yes, sir; I remember that very thoroughly.

Q. Did he not say that in substance at every meeting at which he spoke on the subject?

A. I think that was generally part of his remarks.

Q. And the statement that he made that you have quoted, at the February, 1909 meeting, was not different from his other speeches except in the mere verbiage, was it?

A. He did not give us a guide as to what he was going to pursue; I do not think he knew himself; I do not think he did.

Q. At other meetings he had stated what the policy of the company was going to be?

A. Yes.

Q. And at this meeting he did not state anything about what the company was going to do?

A. No; he did not say anything, because he did not know sufficiently to name a policy.

Q. The only difference between that meeting and the others was that he gave no guide?

A. That is true.

Q. By which you could steer your course, is that it?

A. That is right.

Q. He never attempted to lay down a rule for the rest of you, did he?

A. No.

Q. Or to bind anybody to any rule?,

A. No.

Q. Or any policy that he favored?

A. No.

Q. At any meeting?

A. No; except so far as he felt that it would be to the interest of all to make broad statements there of their condition and what they probably expected to do, and be frank with each other.

Q. He always advised that, did he not?

A. Yes.

Q. And he advised full publicity of the affairs of each?

A. Yes, and he always gave that, I think to the newspapers, right after the meetings were held.

Q. And advised frankness between the manufacturers?

A. Always.

Q. And friendly relations, did he not?

A. Always.

Q. And that they should trust each other?

A. That was part of it.

Q. And that they should tell the truth to each other as to their affairs?

A. Yes.

Q. And he also advised that they should state their several prospects, so far as they fairly could, did he not?

A. Yes, sir.

Q. But he never advised that they should agree as to their prices of output, did he?

A. No; I think he always stated that they could not do that.

Q. He stated too that his company would not do it?

A. Yes.

Q. He stated that more than once?

A. Yes, sir.

Q. You heard him state that many times?

A. Yes.

Q. That his company would not agree on either of those subjects?

A. Yes. The subject of his talks was always the same with the same idea except that one meeting and he could not give us any guide as to what he expected to do.

Q. That is, at that one meeting he could not tell you what his company was going to do?

A. We did not know, and I do not think he knew himself, because there were a good many changes in the next few days.

Q. You did not any of you know what you were going to do, did you?

A. No; I guess not.

Q. You spoke of a meeting being attended by Mr. Converse in the early days, when you say he was a director of the Steel Corporation. He was at that time also connected with the National Tube Company, was he not?

A. I do not think he was an officer of the National Tube Company. As I recall it now, I do not think Mr. Converse put any money into those meetings. Of course, we chipped in. He was there more as an honored guest.

MR. DICKINSON: Who was that?

THE WITNESS: Mr. Converse. He had been in the business before; he was the father of the tube business, you might say, and he was there as an honored guest.

By MR. LINDABURY:

Q. That was the Lapweld Tube Association?

A. I do not think you would call it an association.

Q. That is what Mr. Dickinson calls it, and a gathering as you call it?

A. Yes.

Q. And you all put up some money?

A. Yes.

Q. And you ate it up?

A. We ate most of it up and some of it went for presents.

Q. Was there any assessment beyond sufficient to pay for the dinners you ate?

A. I think so; I think there was a little over.

Q. A little over?

A. Yes.

Q. The over was for presents?

A. Presents were taken out of part of it, and the balance was distributed among those who were not quite up to their allotments.

Q. The "lame ducks"?

A. I suppose you would call them lame ducks.

Q. The distribution of that was very small, was it not?

A. Yes; very small.

Q. Trifling, was it not?

A. Yes, sir; trifling.

Q. These dinners, I take it, were modest?

A. They were very nice dinners.

Q. Did you have champagne?

A. I do not recall the menu, you know, right straight through, but they were all right.

Q. That kept up for two years and two months?

A. I think it was over two years.

Q. How do you fix the two months?

A. I do not think I fixed it at two months. I think I said a little over two years, as I recall it.

Q. Did it end with a jollification or a funeral, or just die, just fade away?

A. I think at one of those meetings, the last meeting, as I recall it, Mr. Worcester seemed to have some inside information that some one thought they had better be given up, and I could not tell at the time whether he thought they were a good thing or a bad thing or whether the information had come to him that they had better be discontinued.

Q. You did not know whether it was on moral grounds or legal grounds or pure business?

A. That is it.

Q. It might have been on any one of the three, I take it?

A. That is right.

Q. And Worcester was a National Tube man?

A. He was a National Tube man.

Q. And it was because of his objections, then, or at his suggestion, that they were given up?

A. I think so, yes.

Q. And I take it the most you gave up was the dinner?

A. Yes.

Q. That is the most there was in it, was it not?

A. That is the most there was in it.

Q. I thought so. That is all.

REDIRECT EXAMINATION.

By Mr. Dickinson:

Q. Mr. Worth, you were asked about an understanding or agreement. Do you distinguish between the two, as to whether one is more formal than the other?

A. I think I do.

Q. What do you mean when you speak of agreement?

A. Agreement, I think, is a more binding document than an understanding, and an agreement might be reduced to writing, whereas an understanding would be more in the line of conversation which would admit of different interpretations.

Q. You regard an agreement, when you speak of agreement, as a written, binding document?

A. Not necessarily. I think agreements are very generally reduced to writing.

Q. I was just asking you what you had in your mind when you were speaking of entering or not entering into agreements?

A. Well, in the old Plate Association, the understanding there was reduced to writing, as I recollect it, which would make it more in the nature of an agreement; whereas the other I would think was nothing more than an understanding.

Q. In regard to these prices that you talked of, did you or did you not have an understanding as to what the prices would be?

A. So far as the discussions around the table as to the condition of our order books and the conditions of trade at that time, that it would probably warrant us in charging about so much for our goods just at that period——now, what the conditions might be the next day, you know, might be very greatly different.

Q. When you reached an understanding——we will call it understanding——as to what it would warrant, did you and the others present notify those who had been accustomed to meet with you and who were not present what the understanding was as to the price?

A. I think those who were not present were sometimes called up, or the next time they were met by any of those who were present they would state a little as to what was determined at that meeting, what was learned at that meeting as to the condition of the different order books and what the different members expected to do as the result of the information gained at the meeting.

Q. State whether or not after these meetings you yourself advised any of those who were not there as to any understanding reached in regard to what price you thought you would be warranted in charging.

A. I do not recall that I did that. I would be the natural one to advise my neighbor, but he was generally present or else had a representative present, so that I do not know

whether as a matter of fact there was any case of the kind, but that would be the general plan, I think.

Q. That was part of the plan?

A. I think that was the whole idea, so that we might all have full information as to what was obtained by an interchange of ideas around the table.

Q. What all?

A. All those who were manufacturers of plate who would come together at any time.

Q. Did that mean all that were called independents, or all those who had been acting together?

A. I think pretty much every one who made plates was notified, unless it may have been the Carbon Steel Company, and I think they have always concentrated on a special class of trade which was not so much in competition with others, and I think they have generally acted quite independently.

Q. So the notification went to all of your competitors?

A. Practically all of them.

Q. Practically all of your competitors?

A. Yes.

Q. You spoke of the policy laid down by Judge Gary. I will ask you whether or not that policy was always followed.

A. Judge Gary did not state anything about prices. He might state in some of his discourses as to the advisability of trying to maintain what had gone before, or there might be a time when some concessions should be made, or something of that kind; but I cannot recall that he said anything about prices in his discussions.

Q. Were you at a dinner there on January 11, 1911?

A. 1911? That was a year ago. I do not recall such a dinner. Was that one of the regular Gary dinners? If so, I was there. I think I attended them all.

Q. Then if one of them did occur on that date, you were there?

A. I think I was there; I do not think I missed any of them.

MR. LINDABURY: He had better find out, before he gives a speech, because if we find he was not there—

MR. DICKINSON: I understand he says he was at all of them.

THE WITNESS: I might have been at the time, you know.

By MR. DICKINSON:

Q. You do not mean to say then you were at all of them?

A. I was at all of them, I think, at some time during the dinner. I did not stay through all of them.

Q. Did you miss any of his speeches?

A. I do not recall.

Q. Was not that the *piece de resistance* usually?

A. I missed his speech the other day at the Iron & Steel Institute. I was sorry for it, too, but I was not over here in time.

Q. You could not say whether you heard his speech on that day?

A. No; I could not tell you.

MR. DICKINSON: That is all.

(Witness excused).

CHARLES S. TRENCH,

called as a witness on behalf of the United States, being first duly sworn, testified as follows:

DIRECT EXAMINATION.

By MR. CORNEAU:

Q. Will you state your full name, Mr. Trench?

A. Charles S. Trench.

Q. And your business?

A. Editor of the American Metal Market and Daily Iron & Steel Report, of the firm of C. S. Trench & Company, Metal Brokers.

Q. How long have you been a member of the firm of C. S. Trench & Company, metal brokers?

A. Since it was started, thirty-one years ago.

Q. Have you ever at any time been interested in any other way in the tin plate business?

A. I was interested in the manufacture of roofing plates at Norristown, Pennsylvania.

Q. What was the name of the firm or concern?

A. Norristown Tin Plate Company.

Q. And what was your position with that company?

A. For three or four years I was the selling agent. After that I became the proprietor.

Q. During what period was that?

A. It was started first in 1892, and I took it over about 1895 or 1896.

Q. Then you were its selling agent from 1892 to 1895 or 1896?

A. Yes.

Q. And proprietor from that time on?

A. Yes, sir.

Q. Did that concern manufacture tin plate?

A. Did it manufacture tin plate?

Q. Yes.

A. It manufactured what we call in the trade terne plate, which is the tin plate when used for roofing purposes.

Q. When you say manufactured, do you mean that it manufactured from the raw material up, or from some intermediate point?

A. No; we manufactured from the black plate to the finished material.

Q. Then it did not make its own black plate?

A. It did not make its own black plate.

Q. What is the term usually applied to manufacturing concerns of that sort, the common term?

A. They call it a dippery.

Q. Prior to the time of the formation of the American Tin Plate Company where did you get your black plates for the Norristown Tin Plate Company?

A. We got them from the Star Tin Plate Company, Marshall Brothers Company, the Cumberland Sheet & Tin Plate Company, and I think other concerns; but those were the three principal ones.

Q. Do you recall about when the American Tin Plate Company was formed?

A. It was formed in 1898.

Q. After it was formed, where did you get your black plates?

A. I got my black plates from the fulfillment of contracts made with the companies which I had running, which companies were taken over by the American Tin Plate Company, and when they took them over, of course, they had to take the contracts that they were obligated on.

Q. And thereafter, what did you do about getting black plates; that is, after those contracts ran out?

A. I got some from the Lalance & Grosjean Manufacturing Company.

Q. Anyone else you recall?

A. No.

Q. Did you endeavor to get black plates anywhere else?

A. I did.

Q. Where?

A. I endeavored to get them from the American Tin Plate Company.

Q. Did you get them?

A. No.

Q. Why?

A. I am quite sure I tried the St. Louis Stamping Company, and I think I tried the Whittaker Iron Company, I think the name of the firm was.

Q. What is the reason you were unable to get plates from those concerns, if it is the fact you were unable to get them?

A. I was told they could not spare them.

Q. In each instance?

A. Yes.

Q. How often did you endeavor to get black plates from the American Tin Plate Company?

A. I do not think I applied to them more than once.

Q. Why?

A. Because it was generally understood that they had no black plate to spare, and that was the experience of the other men in the same trade, who told me the same thing.

Q. How did you learn that that had been their experience?

A. By conferences with them.

Q. More than one conference?

MR. SEVERANCE: I want to object to this as purely hearsay; it is not any conference with the tin plate company, is it, but with other people?

MR. CORNEAU: With other people; speaking of statements made by them at such conferences.

MR. SEVERANCE: I understand, but you cannot introduce talks with outside people and make it evidence against the Tin Plate Company. At least, not in ordinary court proceedings. I do not know what you can do in this case. I object to this as hearsay.

(The question was repeated by the stenographer as above recorded.)

By MR. CORNEAU:

Q. Will you answer that question?

MR. SEVERANCE: I move to strike out the two proceeding answers on the same ground.

THE WITNESS: May I answer it?

By MR. CORNEAU:

Q. Yes, you may answer it.

A. Yes, sir; more than one.

Q. State whether or not there was a meeting of dippers held at which that subject was discussed?

MR. SEVERANCE: I object to that as irrelevant and hearsay, it not being claimed that the defendants or any of them were present at any such meeting; and I also object to it as leading.

A. There was a meeting held in the summer of 1899.

By MR. CORNEAU:

Q. Who called that meeting, if you know?

MR. SEVERANCE: Same objection.

A. I did.

MR. SEVERANCE: I would like the objection to cover all testimony relating to any such meeting.

MR. DICKINSON: The general objection of irrelevancy and incompetency?

MR. SEVERANCE: Yes, and as hearsay. And if I have a special objection that it is leading I will put it.

By MR. CORNEAU:

Q. Where was the meeting held?

A. It was held at the Fulton Club.

Q. In this city?

A. Yes, sir.

Q. Do you recall who were present at that meeting?

A. I think I can recall some of them. There was a representative of the Wheeling Corrugating Company, Mr. Glass, the Phillips Tin Plate Company of Philadelphia, Follansbee Brothers of Pittsburg, Merchant & Company, Philadelphia, and, I think, N. & G. Taylor Company.

Q. How about Meurer Brothers?

A. Meurer Brothers were also present, Mr. Jacob Meurer.

Q. Will you just state to us please, the discussion that occurred at that meeting or what occurred at that meeting?

MR. SEVERANCE: My objection covers that.

A. We discussed the position that we found ourselves in of not being able to get a supply of what was our raw material. Shall I go on further?

By MR. CORNEAU:

Q. Yes.

A. And the discussion was what we should do in the matter or if there was anything we could do. It was the sense of those present that the solution of our difficulties was to put up what are known as tin plate mills.

Q. You spoke about the discussion with reference to the difficulty in getting black plate. Will you give us what was said, as nearly as you can recall it?

MR. SEVERANCE: The same objection with reference to that.

A. Well, we exchanged views as to whether we had been able to get any black plate for our various plants, and we all seemed to have had the same experience that I had had.

By Mr. Corneau:

Q. What concerns were, at that time, supplying black plate to the trade? I mean, what concerns were engaged in the manufacture of black plate for the trade?

A. LaLance & Grosjean Manufacturing Company; St. Louis Stamping Company; the Whittaker Iron Company—I think that was the name of the firm in that year.

Q. Those are the ones you recall now that were making black plates at that time?

A. That is all that I can recall at the moment.

Q. Tell us what the business of the St. Louis Stamping Company was?

A. Their business is the making of raw material for their manufactured goods, which consist in enamel ware and tin plate products, cans and things like that.

Q. Do you know whether or not that company was engaged in manufacturing black plates for the trade generally, or whether they were engaged in the manufacture of plates for their own use in making these articles which you say they dealt in?

A. It was understood that it was for their own use.

Q. Will you tell us the facts in that respect with reference to LaLance and Grosjean?

A. The same.

Q. You, however, obtained some black plates from La Lance and Grosjean?

A. I did.

Q. How was that?

A. I knew Mr. Cordier very well, who was a member of the firm, and, at my solicitation, he from time to time was able to give me a limited supply.

Q. I will read over to you, Mr. Trench, the names of various concerns, and would like you to tell me, as I read them over, which of them, if any, were engaged in the manufacture and sale of black plates for tinning, at the time of the formation of the American Tin Plate Company: Griffiths Charcoal Iron Mills?

A. They were engaged in the manufacture, but I do not know that they were a seller of black plate.

MR. SEVERANCE: These are in the petition, are they?

MR. CORNEAU: No. This is the list that was read, I think, by Mr. Reed, during the examination. It is a list of various concerns that have been mentioned at one time or another.

MR. SEVERANCE: They are not in the petition? It is not the list of the companies given there?

MR. CORNEAU: No. These are not the ones that were taken over by the Tin Plate Company.

MR. SEVERANCE: What was the first one you mentioned?

THE WITNESS: They did not exist.

By MR. CORNEAU:

Q. When were the Griffiths Charcoal Iron Mills organized, as nearly as you can recall?

A. They were organized, according to my remembrance, about a year after the formation of the American Tin Plate Company.

Q. The National Enameling and Stamping Company?

A. They were the same as the St. Louis Stamping Company; the St. Louis Stamping Company was merged into that company.

Q. When that company was formed?

A. Yes.

Q. The Parkersburg Iron & Steel Company?

A. I do not know anything about them.

Q. N. & G. Taylor?

A. They were not making black plates at that time.

Q. They were dippers, as I understand your testimony a while ago?

A. At that time.

Q. The Alcania Company, Avonmore?

A. They were building, but they were not completed and ready to act.

Q. The Washington Tin Plate Company?

A. It was not in existence.

Q. The Whittaker-Glessner Company?

MR. SEVERANCE: Do you mean by that that the Washington Tin Plate Company never existed?

MR. CORNEAU: With respect to the time of the organization——

MR. SEVERANCE: He said it was not in existence. (To the witness.) Do you mean that it was built afterwards?

THE WITNESS: I do not think it was started, sir, until the following year after the formation of the American Tin Plate Company.

MR. CORNEAU: Mr. Severance, there was a Washington Tin Plate Company taken into the American Tin Plate Company, which is probably in your mind.

MR. SEVERANCE: That is what I thought.

(By request the stenographer repeated the question, as follows:)

"Q. The Whittaker Glessner Company?"

THE WITNESS: That was a consolidation of the Whittaker Iron Company with some other interests which also included the Wheeling Corrugating Company, Mr. Glass.

By MR. CORNEAU:

Q. And when did that consolidation occur, as you recollect?

A. I could not tell you.

Q. With reference to the time of the formation of the American Tin Plate Company?

A. It was after that.

Q. Speaking now with reference to the time of the formation of the American Tin Plate Company: Was the Wheeling Corrugating Company engaged in the manufacture of black plates at that time?

A. At the time of the formation of the American Tin Plate Company it was not.

Q. The American Rolling Mill Company, Middletown, Ohio?

A. I could not give you any information about that.

Q. Are you still interested in the Norristown Tin Plate Company?

A. It no longer exists.

Q. What became of it?

A. The company was disbanded after the sale of the property.

Q. To whom was the property sold?

A. To the American Sheet & Tin Plate Company. I believe that was the name at that time.

Q. When?

A. In 1899.

Q. I imagine that was before the formation of the American Sheet and Tin Plate Company.

A. Then it must have been the American Tin Plate Company. I am not quite sure when the change of name took place.

Q. How did you happen to make that sale?

A. It was suggested to me by a friend. I had a patent that was thought to be valuable. It was thought that perhaps I could make a sale of that patent, and, in that way, finish my business.

Q. Were you anxious to sell?

A. I was, under the conditions that existed.

Q. To what do you refer?

A. I could not run the plant.

Q. Why not?

A. I could not get black plate.

Q. What was the nature of the business carried on by the Norristown Company, with reference to the manufacture of special brands for jobbers?

A. That was a part of our business, manufacturing these special plates, under our patents.

Q. State what position that put your company in with reference to the necessity for getting black plates and continuously operating?

A. I could not be expected to hold my customers and to have them continue their private brand under my manufacture unless I could give them a steady supply.

Q. Why was a steady supply necessary?

A. It stands to reason, if you have a special brand of any article, that you have advertised and put on the market, that if you cannot supply it, and have a period of time of six months or a year pass, your work is useless.

(Whereupon, at 12:30 o'clock p. m., a recess was taken until 2 o'clock p. m.)

AFTER RECESS.

The hearing was resumed at 2 o'clock p. m.

C. S. TRENCH,

resumed the stand for further

DIRECT EXAMINATION.

By Mr. Corneau:

Q. Did I ask you this morning, Mr. Trench, to whom the Norristown Tin Plate Company was sold?

A. You did.

Q. I am not sure that you told us this morning what is the business of C. S. Trench & Company?

A. Metal brokers.

Q. In what sorts of metal?

A. Tin, copper, lead, spelter, amalgam.

Q. And you said, I believe, that you had been in that business for some thirty odd years?

A. Yes; that is the present business of C. S. Trench & Company.

Q. How long has that company been in business?

A. Prior to about 1900 our principal business was selling tin plate.

Q. How long have you been connected with the American Metal Market Company, is it?

A. Yes.

Q. And the Daily Iron & Steel Report?

A. About thirteen years.

Q. What is your connection with these companies?

A. I am president of the company and the editor of the paper.

Q. What papers do they publish?

A. Publish the American Metal Market and the Iron & Steel Report on business days, the Steel Metal Digest once a month, and Metal Statistics once a year.

Q. State whether or not you have to do with the preparation of Metal Statistics. That is this book which I hold in my hand, as I understand?

A. I have general supervision of it.

Q. What is the general nature of the statistics published in that book?

A. Production, prices, and other information that can be expressed in statistics, regarding the steel and metal trade.

Q. Will you please tell us just what sort of an organization you have for the collection of statistics with reference to production and prices—how you go about it?

A. We have an office in New York, of course, and an office at Pittsburg, and those statistics are the result of the daily or weekly developments in the trade.

Q. Ascertained in just what manner?

A. They come up from time to time, and they are obtained when the information is available to the public.

Q. By representatives of the publications, as I understand?

A. We collect them.

Q. The book "Metal Statistics," as I understand, also is a summary or resume of the statistics published daily or at longer intervals in your other book? Is that right?

A. Yes; and prior to our publications.

Q. Do you know the standing of your publications in the trade generally with reference to reliability?

A. I think "Metal Statistics" is accepted as the authority.

MR. CORNEAU: We offer in evidence the tables found on pages 23, 27, 31 to 35 both inclusive, 37, 49, 51, 53 to 55 both inclusive, 63, 71, 73, 75 and 77 of the book entitled "Metal Statistics for 1912," published by the American Metal Market and Daily Iron & Steel Report.

It is agreed that those pages may be put in without offering the entire book.

(The tables so identified were offered in evidence and marked as follows: Page 23, Government Exhibit No. 101,

June 11, 1912; page 27, Government Exhibit No. 102, June 11, 1912; pages 31 to 35, Government Exhibit No. 103, June 11, 1912; page 37, Government Exhibit No. 104, June 11, 1912; page 48, Government Exhibit No. 105, June 11, 1912; page 49, Government Exhibit No. 106, June 11, 1912; page 51, Government Exhibit No. 107, June 11, 1912; page 53, Government Exhibit No. 108, June 11, 1912; page 54, Government Exhibit No. 109, June 11, 1912; page 55, Government Exhibit No. 110, June 11, 1912; page 63, Government Exhibit No. 111, June 11, 1912; page 71, Government Exhibit No. 112, June 11, 1912; page 73, Government Exhibit No. 113, June 11, 1912; page 75, Government Exhibit No. 114, June 11, 1912; page 77, Government Exhibit No. 115, June 11, 1912.)

CROSS-EXAMINATION.

By MR. SEVERANCE:

Q. Mr. Trench, you said that you had been engaged in what is known as the business of a dipper of tin plate in connection with the Norristown Tin Plate Company?

A. I did.

Q. And in the fall of 1899, as I understood you, you sold your plant, together with a certain patent, to the American Tin Plate Company?

A. Yes, sir.

Q. Without going into details, what was the patent? Was it something that had to do with the making of tin plate?

A. Yes, sir; it was the patent for coating black plates with tin, and also for the purpose of making what is known as roof plate.

Q. Was the process covered by the patent that you spoke of such as has since been employed by the American Tin Plate Company?

A. It was.

Q. Still used by them, is it not?

A. I think they advertise it as one of their best plates.

Q. It was purchased by them with the plant that you had?

A. Yes.

Q. Was there a separate price for each?

A. No.

Q. Or was it a lump price?

A. One lump price.

Q. In general, will you describe your plant which you sold, the Norristown Tin Plate Company?

A. Our plant was what is called a dippery. Our raw material was cold rolled, pickled and annealed black plates, pig lead, pig tin, palm oil and acids. On receiving the black plates we would pickle them in acid, and then they would go to what we call the tinning pots. They would pass through these tinning pots and that was the process of manufacture. They came out then the finished material.

Q. Have you any recollection of the cost of that plant itself?

A. I have a recollection of what I paid for it, but I do not know what it was originally.

Q. What did you pay for it?

A. About $20,000.

Q. And what did you receive for the plant and the patent?

A. $50,000.

Q. And the patent, you say, was a useful patent and is still used?

A. Yes.

Q. And the product made under it is widely advertised?

A. Yes.

Q. Did you regard that as only a fair price, and the fair value of the plant, and the patent?

MR. CORNEAU: I object to this as incompetent, irrelevant and immaterial.

A. I considered the plant, under the circumstances existing, virtually worthless. I considered I was selling my patent.

By MR. SEVERANCE:

Q. Did you consider the price paid a fair and reasonable price?

A. Under the circumstances, yes.

Q. You considered that the patent itself was sufficiently

valuable so that the $50,000 was not an exorbitant or out of the way price to pay for that property, did you not?

A. I think it was worth more than that under ordinary circumstances, but under the circumstances that existed at the time I was satisfied to accept it.

Q. It was fairly worth at least that?

A. In my estimation it was worth more.

Q. You said that you were unable to buy black plate from the American Tin Plate Company because it did not have any to spare. I think you so stated this morning?

A. Yes, sir.

MR. CORNEAU: I beg your pardon. I understood him to say that was what he was told by them.

THE WITNESS: That was my statement.

By MR. SEVERANCE:

Q. You understood that to be the fact, did you not?

A. I understood that they could not spare the plate.

Q. Is it not a fact that it came to your knowledge at that time and afterwards, that the American Tin Plate Company had to go into the market and buy plate itself at times?

A. Tin plates?

A. No; black plate — buy black plate at times?

A. After the formation of the American Tin Plate Company?

Q. Yes.

A. I have no knowledge about that.

Q. You do not know of that?

A. No, sir.

Q. You do not know to the contrary?

A. Well, I frankly do not see where they could have bought it?

Q. I mean abroad.

A. They might have bought it abroad, yes.

Q. And you do not know, as a matter of fact, whether or not they did buy black plate abroad at times to take care of their business?

A. I do not know.

Q. You could have bought black plate abroad?

A. Certainly.

Q. You said this morning that you attended a meeting of certain manufacturers also called dippers, and you named them, at which meeting there was talk of building a plate mill?

A. Yes, sir.

Q. Did those gentlemen build a plate mill?

A. No, sir.

Q. Or did any of them afterwards build a plate mill?

A. Yes; some of them afterwards biult a plate mill.

Q. Not long after?

A. I think within two or three years.

Q. Which of the dippers at that time built plate mills of their own afterwards? Can you name them?

A. N. & G. Taylor Company bought a mill and changed it so they could make black plate.

Q. From whom did they buy it?

A. I could not tell you, I do not remember.

Q. What other ones built plate mills?

A. The Wheeling Corrugating Company made an arrangement with the Whittaker Iron Company by which they got black plate.

Q. Then did they consume all the black plate that the Whittaker Iron Company made?

A. I do not know.

Q. Did you know of any of it being in the market?

A. Not at that time.

Q. You spoke of the St. Louis Company, and that the stamp works out there took their supply as far as they made it. That is true, is it not?

A. I think so.

Q. They declined to sell you black plate, did they not?

A. I could not get any from them; I did not get any from them.

Q. That is what I mean; you could not get any from them because they needed it for their own use?

A. For their own requirements.

Q. The fact is that all the manufacturers of tin plate whose needs consumed their production of black plate refused to sell it, is not that true?

A. Yes, sir.

Q. Was black plate imported at that time to some extent?

A. I think there was black plate imported by two firms in Philadelphia, to a small extent.

Q. Who were they?

A. I cannot speak positively, but my impression is that N. & G. Taylor Company and Merchant & Company both imported some black plate.

Q. After you sold the Norristown plant did you engage in manufacturing or have you since been a broker and publisher?

A. Simply a broker and publisher.

Q. You stated to counsel that you are a general metal broker, as I understood you. Is that right?

A. Metals.

Q. Will you kindly name the metals that you handle?

A. At present or since then?

Q. Yes; at present?

A. Pig tin, copper, lead, spelter, antimony.

Q. Where is the pig tin produced that you handle, Mr. Trench?

A. The bulk of the tin of the world is produced in the East Indies, what we call the Malay Peninsula.

Q. And where is that production mainly controlled—in London?

MR. CORNEAU: Objected to as immaterial?

A. Do you mean the production or the price?

By MR. SEVERANCE:

Q. The price and the handling of the product so as to control the price?

A. Controlled in London.

Q. Is the American Sheet & Tin Plate Company, the successor of the American Tin Plate Company, a large consumer of pig tin?

A. The largest in the world.

Q. As a metal broker, if you do not mind stating, how does the amount that you handle compare with that handled by other brokers in this country?

MR. CORNEAU: That is also objected to as immaterial.

MR. SEVERANCE: You asked him about it.

MR. CORNEAU: I know.

(By request, the stenographer reepated the pending question.)

By MR. SEVERANCE:

Q. I simply want to get at the fact as to whether you are handling it on a large scale or upon a small scale.

A. I think we are the largest sellers to the American consumers of that metal, acting as brokers.

Q. That is what I have been told, and I wanted to develop it. Do you sell pig tin to practically all of the American consumers, or a great number of them?

A. All that I can.

Q. You can sell to a good many, can you not?

A. Yes; I think so.

Q. Among others do you sell pig tin at times to the American Tin Plate Company?

A. To the American Tin Plate Company?

Q. The American Sheet & Tin Plate Company, it is now.

A. I sell, yes, to the United States Steel Corporation through the United States Steel Products Company.

Q. That is, you sell to the United States Steel Products Company which buys its importations for the American Sheet & Tin Plate Company?

A. Yes.

Q. And you sell to a great number of other manufacturers? That is true, is it not?

A. That is right.

Q. You have stated that the price of pig tin is controlled in London. That is true, is it not ?

A. They endeavor to control it over there, and are pretty successful.

Q. At times is it not a fact that they have in London what is substantially a corner in pig tin?

A. Yes.

Q. They try to get that, do they not, at times?

A. That is what they work for.

Q. And the price that the American Sheet & Tin Plate Company has to pay for its pig tin or that any manufacturer in the United States has to pay for that pig tin, is fixed, to an extent by these corners, is it not?

MR. CORNEAU: I think I shall enter an objection to his testifying concerning these corners, unless you quality him as knowing the facts with reference to the corners. If you want to show how the market is fixed, that is, perhaps, a different question.

MR. SEVERANCE: He is the largest dealer in pig tin in the United States.

MR. CORNEAU: It is all right if he testifies to what he knows.

MR. SEVERANCE: I will take the chances on it.

(By request, the stenographer repeated the pending question, as follows:)

"Q. The price that the American Sheet & Tin Plate Company has to pay for its pig tin or that any manufacturer in the United States has to pay for that pig tin, is fixed, to an extent by these corners, is it not?"

THE WITNESS: If they have to buy at the time the corners are in existence.

By MR. SEVERANCE:

Q. And if there is no corner in immediate operation, still the price is fixed over there, as you know, from your knowledge of the business, and the American manufacturers have to pay that price to get the tin. Is not that true?

A. In most cases.

Q. What is the custom of the consumers of pig tin in this country as to carrying large stocks, either afloat, abroad or in warehouses?

A. They are naturally influenced by their ability to carry and their view of the future and the market.

Q. Do they at times buy ahead, largely?

A. Yes.

Q. How long ahead?

MR. CORNEAU: If you know?

By Mr. Severance:

Q. Yes, if you know. He knows, I think, Mr. Corneau.

A. All the way from thirty days to three or four months.

Q. Have you, at times, as a broker, had difficulty in obtaining pig tin for your customers by reason of the existence of these corners abroad?

A. I have.

Q. At such times will you state whether or not the American Sheet & Tin Plate Company or the United States Steel Products Company, which you say buys pig tin for the Sheet & Tin Plate Company, has sold pig tin out of stocks that they had on hand to their competitors so they could continue in operation?

A. They have been sellers of tin at times.

Q. Under those circumstances, have they not?

A. Usually.

Q. Have you, yourself, gone to the management of the Steel Products Company and procured from them tin for your customers who were their competitors because these corners abroad made it impossible for them otherwise to continue in business?

A. I have bought for other consumers and also for other independent tin plate companies, from the Steel Corporation, yes.

Q. When you could not get deliveries on account of the existence of these conditions abroad?

A. Yes.

Q. And at what prices did you buy? At the market prices, under those circumstances?

A. The cheapest we could, which made the market for New York.

Q. Were you charged anything more than the fair price of the pig tin that they sold to you, to give your competitors the relief under those circumstances?

Mr. Corneau: Just a moment. That is objected to.

The Witness: Shall I answer?

Mr. Corneau: He may answer what the prices were.

Mr. Severance: He may answer what I asked him.

THE WITNESS: The price of pig tin is based on what you could buy it at from day to day. That is the market.

By MR. SEVERANCE:

Q. And did they charge you more than that?

MR. CORNEAU: That is objected to.

By MR. SEVERANCE:

Q. Under those circumstances?

MR. CORNEAU: That is objected to, on the ground that the witness has already testified that the market was fixed from day to day.

By MR. SEVERANCE:

Q. Go ahead.

A. Whatever I bought the metal at was the best that I could buy it at on the day in question.

Q. What I am trying to get at is this: Did they take advantage of the necessities of their competitors when they let you have pig tin, under these circumstances, pig tin that they bought for their own use, by putting an exorbitant price upon the product?

MR. CORNEAU: That is objected to upon the ground that it has not been shown that they bought that pig tin for their own use and on the further ground that it is a mere matter of speculation, anyway.

By MR. SEVERANCE:

Q. I will cover that one objection now.

The United States Steel Products Company and the American Sheet & Tin Plate Company are neither of them jobbers of tin, are they? They buy for the consumption of their own company, do they not?

A. It is so understood, yes.

MR. CORNEAU: I wish to enter the same objection to that question, and move to strike out the answer on the ground that Mr. Trench is not qualified to speak with reference to

the purpose for which those companies buy, he not being in any way connected with them.

MR. SEVERANCE: He is your expert.

MR. CORNEAU: Not in reference to what their business is.

MR. SEVERANCE: Oh, yes. He is an expert tin man.

By MR. SEVERANCE:

Q. The prices of tin plate in the United States are governed, to a very considerable extent, are they not, by the price of this raw material, pig tin?

A. I cannot say so. The pig tin enters into the cost of making the plate.

Q. That is what I had in mind.

A. But I have often wondered that the price has not varied more with the fluctuations in the price of pig tin.

Q. It does, to some extent, vary with those fluctuations, does it not?

A. To some extent.

Q. The variations in price are shown in this book of yours, that has been introduced in evidence?

A. Yes.

Q. Outside of the pig tin which is purchased in the market in this way by the American Sheet & Tin Plate Company through the Steel Products Company, what other of the raw materials do they buy and what do they manufacture, if you know,—raw materials going into tin plate?

A. They buy their palm oil, acid and such lead as they use for their roofing plates.

Q. And where is the price of palm oil fixed, if anywhere?

MR. CORNEAU: I shall object to this line of examination as not cross-examination, and as incompetent, irrelevant and immaterial.

THE WITNESS: In my opinion, in London.

By MR. SEVERANCE:

Q. Where is it produced?

A. In Africa.

Q. The lead is produced in this country, is it not?

A. Yes.

Q. Where are the acids produced that they buy; in this country?

A. Principally in this country, yes.

Q. By chemical works?

A. Yes, sir.

Q. Since the organization of the United States Steel Corporation in April, 1901, can you tell us the names of tin plate manufacturers who have gone into business in this country in competition with the American Tin Plate Company or its successor, the American Sheet & Tin Plate Company?

MR. CORNEAU: That is objected to as not proper cross-examination.

THE WITNESS: Since 1901?

By MR. SEVERANCE:

Q. Yes. Since April, 1901.

A. I can tell you some of them.

Q. Will you do so, and, if you can, give us the capacity of the plants, in mills, and the date they commenced business.

A. The McKeesport Tin Plate Company; the Pope Tin Plate Company——

Q. Just a moment. Let us clean up the McKeesport Company first. Do you know how large a plant that is?

A. I do not remember. I have not the record in my mind.

Q. Do you remember when it went into business?

A. I have it in my office.

Q. You cannot tell here, now, the date? It has been in business several years, has it not?

A. May I look at a memorandum?

Q. Certainly.

A. Perhaps I could tell you from a memorandum that I have here.

MR. SEVERANCE: I assume you have no objection to his looking at a memorandum?

THE WITNESS: Is this right?

MR. CORNEAU: What is the memorandum?

THE WITNESS: I am wondering whether I have a memorandum of the new tin plate mills and their capacity. (Referring to paper). No; I have not got it with me. I should say

that there present capacity is twelve or sixteen mills.

By Mr. Severance:

Q. Do you recall when they went into business?

A. I do not know; I think about 1903.

Q. Go ahead and name some more.

A. The Pope Tin Plate Company.

Q. Where are they located?

A. They are located at Steubenville, Clarksburg, and at Wierton.

Q. Is that a large concern?

A. One moment. Let me correct that. That is the Phillips Tin Plate Company that I was speaking of.

Q. This is the Phillips Company that you have been speaking of?

A. The Phillips Company, yes.

Q. Is that a large concern?

A. It is.

Q. Do you know how large, or do you not know?

A. I think that they stand, having absorbed the Pope Tin Plate Company, the largest independent.

Q. You do not know how many mills they have?

A. Well, I think my remembrance is hardly valuable.

Q. Never mind, if you do not remember.

A. Roughly, about 24 mills, I should think; perhaps more.

Q. If you do not remember these numbers, we will prove them by some one else. I will just ask the names and the dates that they went into business; or give the names, if you cannot do any more than that, of the companies that are now in business and have gone into business since April, 1901. Give us the names, if you can.

A. We are talking about the Phillips Company now?

Q. I am talking about all of them. State the ones that have gone into business since that time. You have named the McKeesport and the Phillips Companies?

A. Yes.

Q. If you are not able to give their capacities, do not do it. Do not do it if you have to guess at it; or unless you are certain about it. We can prove it otherwise. I would like you

to name the different companies if you can.

A. Phillips was started immediately—

MR. CORNEAU: He is only asking, now, for the names of the companies.

MR. SEVERANCE: No. I said if he could give the other details, the dates and all that, I should like to have him do it.

MR. CORNEAU: I thought he had already testified as to that.

MR. SEVERANCE: No; he just said it had about 24 mills.

By MR. SEVERANCE:

Q. Go on.

A. I can only remember as to the Phillips Tin Plate Company, that it was a few weeks before that terrible wreck on the Pennsylvania Railroad in which Mr. Phillips himself was killed. I think it was about 1908. It occurred at Johnstown, or near there, and was one of the worst wrecks they have ever had on that road.

Q. Go on and give us the names of some others.

A. Then the Standard Tin Plate Company.

Q. Where is their location?

A. To tell the truth, I cannot recollect at the moment. I know them very well. I cannot think of it. It will probably come to me in a few moments. That is the Standard Tin Plate Company.

Q. You know of that company as active in the market?

A. Oh, yes. They are very near Pittsburg.

Then, there is, I think it is called, the Washington Tin Plate Company, at Washington, Pennsylvania, owned by Mr. O'Connor.

Q. Yes. You spoke, on your direct examination, of the Griffiths Charcoal Iron Mills?

A. There is an independent mill owned by Mr. Griffiths.

Q. You stated, I believe, that that went into business after the organization of the Tin Plate Company?

A. Yes.

Q. I do not know that you said it was after the Steel Corporation was organized?

A. Yes.

Then there was one at Waynesburg, Pennsylvania, which still exists. I do not remember the name that it is run under at the moment.

Then there is Follansbee Brothers. Their mill is at Follansbee, Pennsylvania.

Also N. & G. Taylor Company. Their mill is in Pennsylvania. I do not, at the moment, remember at what place it is.

Q. May I suggest some to you? Do you know the American Rolling Mill Company at Zanesville and Middletown?

A. I know of them, but hardly consider them as a tin plate mill. They made roofing plate.

Q. Did they make terne plate?

A. They make special terne plate, yes.

Q. Do you know the Brier Hill Steel Company of Youngstown?

A. That is a corporation that has lately been formed, yes. They do not make any.

Q. They make galvanized and black sheets, do they not?

A. Yes.

Q. Do you know the Carnahan Sheet & Tin Plate Company?

A. Yes, sir.

Q. Do you know the DeForest Sheet & Tin Plate Company at Niles, Ohio?

A. Yes, sir.

Q. They are in the business, are they not?

A. Yes, sir.

Q. Do you know whether the Inland Steel Company have tin mills?

A. No; not to make tin plate.

Q. Do you know the Jobe Iron & Steel Company of Ashland?

A. Not to make tin plate.

Q. Do you know Jones & Laughlin?

A. Oh, yes; Jones & Laughlin; they are a very important concern.

Q. They are customers of yours, are they not?

A. Yes.

Q. It is a very large concern, is it not?

A. Yes.

Q. Do you know the Massillon Rolling Mill Company?

A. Not for tin plate.

Q. What do they make, galvanized and black sheet?

A. I have always understood they made black plates and galvanized sheet.

Q. Do you know the Newport Rolling Mill, of Newport, Kentucky?

A. Not for tin plate.

Q. Do you know the Osterberg Tin Plate Company?

A. Yes. They were that Waynesburg Mill that I mentioned a few moments ago that I did not know the name under which they were at present running.

Q. Do you know the North American Steel Company, Bellington, West Virginia?

A. I do not.

Q. You spoke of the Alcania Company this morning?

A. Yes.

Q. Are they making tin plate?

A. I think they were building at the time of the formation of the American Tin Plate Company, in 1898, and the mill was finished afterwards; but I understand the mill has not run for some years. It was a very small mill,——three mills.

Q. Do you know the Wilkes Rolling Mill Company, of Sharon?

A. Not for tin plate, no.

Q. Or the Ferguson Tin Plate Company, of Pittsburg?

A. That is a dippery.

Q. Or the Merchant & Evans Company, of Philadelphia?

A. That is a dippery, as far as they run.

Q. And Meurer Brothers are dippers?

A. Yes, sir.

Q. Are these various companies that you have mentioned that have gone into business since the Steel Corporation was organized, selling tin plate in the market, if you know, in competition with the American Sheet & Tin Plate Company?

A. I so understand.

Q. Your attention was called to certain pages in this book which were introduced in evidence.

MR. CORNEAU: I beg your pardon, Mr. Severance. I do

not know that it is important, but his attention was not called to these pages, but they were merely introduced.

MR. SEVERANCE: Strike out my statement. That is not quite correct.

By MR. SEVERANCE:

Q. You identified a book from which certain pages were introduced in evidence, a book called "Metal Statistics, 1912"?

A. I did.

Q. That is your publication, is it not?

A. Yes, sir.

Q. Will you state how you procured the information that is entered in these books?

A. As regards the production of iron and steel we go to the only and best authority there is in the world, J. M. Swank, of the American Iron & Steel Association, so recognized, I think, both abroad and here. These figures are furnished by the manufacturers to the Association, and quoted by Mr. Swank, and issued from time to time by him under the authority of the Association. They are recognized as absolutely correct. Where the figures deal with the production of other metals—do you want me to go into other metals?

Q. Yes; go ahead.

A. Where the figures deal with the production of other metals we get them from the reports issued by foreign governments, as, for instance, in pig tin issued by the English Government in the Malay Federated States. We get some of our statistics in that way from the United States Government, which has a bureau for the collection of statistics, and our imports, of course, are through the custom house as regards what we have imported to this country.

Our copper figures are of late years the result of the Copper Producers' Association, and also the figures for the whole world as collected by a German authority and some English authorities, and we keep our own as well. That covers the statistics as regards production, imports and consumption.

Q. Turning to specific pages that have been introduced in evidence, take page 27. You have that in front of you, have you?

A. I have.

Q. You give here the production of Connellsville coke and the average price by years. Is the price of coke constantly fluctuating?

A. It is.

Q. Almost from day to day?

A. Yes.

Q. There are a great many producers of coke, are there not?

A. Hundreds, almost.

Q. And how do you get at the average for the year?

A. We keep a daily record of the price through our Pittsburg office.

Q. So that the price is pretty well known in the market today, and again to-morrow?

A. We publish it every day in our daily paper.

Q. And how do you get these figures that you publish every day in your daily paper?

A. From information gathered in the trade in Pittsburg.

Q. That is, from actual sales?

A. So far as they exist. If not, what is believed to be the market that day.

Q. That involves to some extent a matter of judgment, does it not, what is the market? You say what is believed to be the market. If you do not base it on an actual sale or purchase, you must base it on your judgment in some way by the asking price, or something of that sort, do you not?

A. In the case of coke it is based on the experience of our man in Pittsburg, whose duty it is to report every day the price of coke, and he gets it, of course, from the sellers, and from checking one with the other.

Q. There are two sellers, or three sellers, or a dozen who get the prices, one from the other——

A. Yes, sir; but they agree very closely, though.

Q. They naturally would agree very closely?

A. Yes, sir.

Q. Because it is a commodity that would sell pretty much on a uniform scale, I suppose?

A. Yes, sir.

Q. The same as wheat?

A. Yes, sir.

Q. But he has, to an extent, used his judgment in getting at what he would call the average price for that day?

A. Yes, sir.

Q. Based on those sales?

A. Yes, sir.

Q. In doing that does he take into account anything more than the actual prices? Does he take into account the size of the sales?

A. Are you speaking of coke alone?

Q. Yes.

A. Of coke alone?

Q. Yes. I am talking about this table on coke.

A. The sales of coke do not leak out sometimes until several days after they are consummated, if they are of a very large quantity. But these quotations represent what our representative there, circulating and speaking with those people, and also in touch with Connellsville, forms as his opinion as to what price coke can be bought at on that date.

Q. I understand that, but I say in getting at the average price for that day he takes all these separate sales that he hears of, or the asking price, and arrives at what he thinks is the fair market price that day. Is that true?

A. Yes. The prices would not vary. The price of coke is known each day at Pittsburg.

Q. Let us go a little farther with that. You give the average of the year. Do you arrive at that by adding together the prices for three hundred working days, we will say, and dividing by that number?

A. Our man does that.

Q. That is the way it is done?

A. Yes ,sir.

Q. That is the way the average is made?

A. Right.

Q. And it does not take into account the question of whether there is a large amount sold on one day or a small amount on another day?

A. No.

Q. But it is a straight average basis on these reports that

come in from day to day, irrespective of the amount that is dealt in?

A. Right.

Q. Look at page 35.

MR. CORNEAU: What is that, Mr. Severance?

MR. SEVERANCE: Bessemer pig iron.

By MR. SEVERANCE:

Q. You say that page 35 gives the Bessemer average, as compiled mostly by W. P. Snyder & Company from the actual sales of standard Bessemer Pig Iron. Prices are f. o. b. Valley Furnaces. Who are W. P. Snyder & Company?

A. They are very leading people in the pig iron business, and I think we recognize them as the best posted people on pig iron, as regards these figures, and they are so regarded in the trade. It has been the custom for years for Snyder to issue this.

Q. So you recognize the prices they quote on which you base these figures, as the best authority?

A. Yes, sir.

Q. And I notice this is compiled by the month?

A. Yes.

Q. What is that, the average for the month?

A. Snyder would tell you. I think so, but I do not compile them.

Q. You do not know that?

A. No, sir.

Q. You do not know whether pig iron was sold during that month at higher or lower figures than the amount stated?

A. It probably would have done both.

Q. Probably both?

A. It might have done both.

Q. And this is an average?

A. An average.

Q. Made up in the same way your average was made up in the coke business?

A. I do not know how he makes that up. It states it was made from actual sales.

Q. I understand that.

A. And my coke figures are not made from actual sales.

Q. This might be made from actual sales and still there would be sales above and below the amount stated?

A. Yes.

Q. Look on page 37, which is called the basic average f. o. b. Valley Furnace, compiled from sales. Is that the same?

A. I cannot answer you on that.

Q. You do not know what it is?

A. These figures are the iron figures, under the management of our Pittsburg man.

Q. Would you have to give that same answer as to all of the iron and steel tables; that is, that you would not be able to explain how they were made up, but would have to get them from your man in Pittsburg?

A. I could not in these cases but if you will give me the next one I will tell you.

Q. Take page 51, Steel bars. That is one that was introduced in evidence?

A. Steel bars?

Q. Yes.

A. They are from our quotations, in our paper.

Q. From your own paper?

A. Yes, sir.

Q. And those quotations in your own paper are made up by your Pittsburg man?

A. Arrived at from his knowledge of the market and what he finds.

Q. Would that be the same with page 53, Steel Plates?

A. Yes, sir.

Q. And page 54, Structural Shapes?

A. Yes, sir.

Q. Page 55, Bars, Plates, and Shapes?

A. I think in those structural steel and shapes, they would be made up from his records; I do not think we publish those every day.

Q. How does he get his record?

A. In the trade.

Q. In actual business transactions, you mean?

A. Yes. A reporter like that is the connecting point. He connects the market together. He is the circulating medium,

largely, so the different people know what is being done by his touch with them and the exchange of information.

Q. On page 55, that is called "Historic Official Price Changes," and there are a number of prices quoted at different dates, for Bessemer and open hearth, and there is February 19th, 1909, three cases where it says, "open market." What does that mean if you know?

A. Well, that means generally a demoralized condition of affairs, where nobody knows where they are at.

Q. That is, nobody knows what the price is?

A. We do not know where we are at for the time being, and there is no standard to guide us, and people are out to find out what they can.

MR. CORNEAU: What is that date, Mr. Severance?

MR. SEVERANCE: February 19, 1909. It is one of the pages you introduced.

MR. CORNEAU: That was the week of that Gary luncheon that we were talking about this morning, was it not?

MR. SEVERANCE: I want to find out what he means by the open market. He says it is a general demoralized situation where you cannot tell what the market is.

By MR. SEVERANCE:

Q. Is that right?

A. That is right.

Q. I simply want you to translate into common English this trade expression. I do not understand it. And you have no quotation there at all, you will see, under this date, but simply have the words "Open market" and no quotations at all.

That means it is impossible for you to find out——

A. Pretty hard to say what the market is.

Q. Pretty hard for you to find out what the market price is?

A. We would have to guess it.

Q. So you did not put it in?

A. The trade did not know themselves.

Q. And as a good statistician you did not want to put it in?

A. Exactly.

Q. If that same expression appears in here anywhere else it would mean the same thing, would it? I mean that "Open market" business?

A. It means there is no standard to go by; the trade does not know.

MR. CORNEAU: You have not any guide?

THE WITNESS: No guide or standard.

By MR. SEVERANCE:

Q. What do you mean by standard and guide? What do you call a standard or a guide?

A. May I express myself?

Q. I hope you will, sir. That is the idea in asking the question.

A. In every commodity there are interests that predominate, and those interests, from their size and importance and the percentage of the trade which they do, make their leadership very important, and their leadership is followed. I will illustrate: You take a commodity. We will say that 40 per cent of the commodity is handled by one firm in the same commodity, and 2 per cent is handled by another firm. Now it is a matter of indifference what that 2 per cent firm does. They may cut the price or advance the price, or stop selling or do whatever they please. It has very little effect on the market. But if the 40 or 50 per cent man advances his price or puts down his price or stops selling, or takes any action of any kind it is of tremendous importance, and naturally everybody follows it. Now, that is the case in every commodity that I know of, almost.

Q. All kinds of commodities?

A. Yes.

Q. You mean if a very large dealer—take the Republic Iron & Steel Company—it appears in the testimony that two years ago they suddenly reduced their prices.

A. And that broke the market.

Q. And the next day everybody else proceeded to reduce his prices, likewise?

A. They didn't reduce the price; they didn't know where they were at for a while.

Q. It was testified here this morning by a witness that the other manufacturers followed that.

A. Yes; followed that.

Q. And made that reduction?

A. Yes.

Q. That is what you have in mind in this explanation. You have in mind a situation like that where a very large concern that is in the market in a certain commodity is very effective in producing changes in the market price?

A. Yes, sir; any large concern.

Q. I notice on page 73 here in this book you have under the head of "Tin plate production," Colonel Ayre's Reports through 1896; American Iron & Steel Association Reports for subsequent years, and so forth. That shows the source of the information contained on that page, does it not?

A. Yes, sir.

Q. And on page 75 you give an average yearly price of J. B. grade coke tin plate, 108 pounds, delivered at New York. Where do you get these figures?

A. Well, you notice that begins at 1880.

Q. Yes.

A. That is about the time I went into business as a tin plate broker, and these figures were made up partly from my weekly circulars, and the records that were kept, partly by the charts that were issued from time to time, checked by the other authorities, like the Iron Age and other trade authorities for those years, and I believe them to be correct, and they are so regarded in the trade.

Q. This is the average yearly price. And do you get that average by taking the daily prices and adding them together and dividing by the total number of market days in the year?

A. For those back years as near as we could do it. There was no daily paper issued in those years.

Q. Do you do it now?

A. A daily paper now every day.

Q. And you do it the way I have stated at present?

A. Of recent years, yes.

Q. So this would not represent either the highest or the lowest price for the year?

A. No.

Q. How do you get your prices as a broker? Are they given to you by the manufacturers for whom you sell?

A. As a broker or as a newspaper man?

Q. As a broker.

A. I get my prices from the sellers.

Q. From the sellers?

A. Of course.

Q. Either a manufacturer or jobber, whoever you sell for?

A. Yes; but everything I sell, almost, is for a dealer or an importer; I do not sell manufactured goods.

Q. You sell for a dealer or an importer?

A. Yes; because we do not have manufactured goods in the articles I deal in. In some cases it is for the producer of the material.

Q. You get your prices, of course, from your principal, that is, your sellers, for whom you are acting, and these prices, like other prices, I suppose, are subject to fluctuation caused by the supply and demand, and the action of large or smaller producers and manufacturers?

A. I get the price in response to an inquiry. When I receive an inquiry I find out the cheapest seller, and I telegraph or telephone that price, and if my buyer accepts, it is a trade.

MR. SEVERANCE: That is all.

REDIRECT EXAMINATION.

By MR. CORNEAU:

Q. Mr. Trench, do you recollect whether or not shortly before, within a day or two, perhaps, before the date to which Mr. Severance called your attention, February 19th, 1909, I think, at which the open market began, there had been held a so-called Gary dinner or luncheon?

A. I knew nothing about it of my own personal knowledge.

Q. Do you know what was stated in the press with reference to the fact of there having been?

A. I have a general recollection of what the press did say.

MR. SEVERANCE: Objected to as purely hearsay.

By MR. CORNEAU:

Q. You said you did know?

A. I have a remembrance. You mean were the Republic Iron & Steel Company——

Q. I am speaking of this particular period.

A. The Republic Iron & Steel Company——

MR. LINDABURY: No; that is not the period.

THE WITNESS: Oh, that is not the period?

MR. CORNEAU: That I do not know.

MR. LINDABURY: It was in 1911, that dinner. I do not think Mr. Corneau has forgotten.

MR. CORNEAU: I do not know.

MR. LINDABURY: He appealed to you for information. He asked for bread and you gave him a stone.

MR. CORNEAU: In 1909.

MR. SEVERANCE: At the time they cut the price, it was two years after.

MR. CORNEAU: I did not have in mind the Republic Iron & Steel Company cutting their price. In fact I did not have that in mind at all.

MR. LINDABURY: But he asked you and you ought to have told him.

MR. CORNEAU: Well, I did not know.

MR. LINDABURY: Then you ought to have asked.

THE WITNESS: In 1909?

By MR. CORNEAU:

Q. In 1909.

A. I understand your question is did I know of any dinner in 1909 which resulted in an open market?

Q. No; shortly before the time when this announcement was made to which Mr. Severance called your attention?

A. To an open market?

Q. To an open market.

A. I could not say of my own personal knowledge.

Q. Mr. Severance asked you as to sales made by the United States Steel Products Company of pig tin to other manufacturers in this country, and I understood you to say that those sales were made at times when there were corners, or attempts to corner the tin market abroad. Is that right?

A. Yes.

Q. I presume that, as a result of those attempts to corner, the price had risen above that previously charged?

A. Yes.

Q. And you say the Steel Products Company, with others, sometimes had on hand a very considerable quantity of pig tin which it had bought previously and was holding?

A. They are obliged to have. Tin comes from the East Indies and has two oceans to cross.

Q. So at the time these sales were made, the Products Company would have had on hand tin which it had bought previously before those corners were started, and no doubt at lower prices; is that right?

A. I do not know what the tin cost them.

Q. You are familiar with the range prices had been taking previous to those corners?

A. Well, from the fact the tin was in America and had to come from the East Indies, and the price had gone up in the previous week it is natural to suppose that tin cost them less than the corner price.

Q. When you purchased for other competitors from the Products Company did you purchase at those lower prices or at the higher prices which the corner had produced?

A. The position was simply this, that a certain crowd had cornered the tin market in London and was starving us, exploiting the American condition, because we produced no tin in this country, and we virtually had no tin outside of one interest, the United States Steel Corporation. Our dealers had none, or virtually none, and our consumers virtually none. My business as a broker is to supply those consumers pig tin.

Q. I understand.

A. When they inquired for the tin they knew the situa-

tion. It was really a case where I could not supply them, and I went to the United States Steel Corporation.

Q. Yes.

A. To Mr. Farrell.

Q. Yes.

A. I laid the situation before him.

Q. Yes.

A. And I suggested that I thought he could help the situation by giving the New York American Metal Market some supplies.

Q. Yes, and he gave them?

A. He gave them several times.

Q. At what prices? At the prices that had prevailed when he bought or the prices which were prevailing at the time of the sale during the corner?

A. He gave them at what we considered the market.

Q. The market as fixed by this foreign corner?

A. You see our situation was this——

Q. Just answer the question, please.

MR. SEVERANCE: Let him explain.

MR. CORNEAU: I insist on an answer.

MR. SEVERANCE: I submit the witness was asked a question and has a right to answer it. You are trying to impugn the motive of Mr. Farrell in complying with his request, and I submit he should be permitted to answer.

MR. CORNEAU: I ask an answer yes or no.

MR. SEVERANCE: He is your witness.

MR. CORNEAU: He is your witness on this subject. I am cross-examining him.

MR. LINDABURY: The witness is not bound to give a categorical answer if he cannot.

MR. CORNEAU: He has not said he could not.

MR. SEVERANCE: Give such answer as you can.

MR. CORNEAU: Read the question.

(The question was repeated by the stenographer, as follows:)

"Q. At what price? At the prices that had prevailed when he bought or at the prices which were prevailing at the time of the sale during the corner?"

MR. LINDABURY: The question is incapable of a categorical answer.

A. I do not know the prices that had prevailed when the tin that I sold had been bought. The prices I bought at were the market for the day.

By MR. CORNEAU:

Q. Fixed by whom?

A. Fixed by the conditions.

Q. Who were selling that day in this country? Who had pig tin for sale?

MR. LINDABURY: Wait until he has answered.

MR. CORNEAU: I will withdraw the other question.

By MR. CORNEAU:

Q. Who had pig tin for sale at those times in this country?

A. There were a few, two or three firms with limited amounts, and they were asking very high prices, or extortionate prices.

Q. How did the United States Steel Corporation price compare with the price that others were asking?

MR. LINDABURY: Do not answer that question until you have answered the previous question.

MR. DICKINSON: We will have the actual prices before we get through.

MR. LINDABURY: You can get the actual prices, but I want the witness to answer this question.

A. The price was lower, else I would have bought from the other people.

By MR. CORNEAU:

Q. I thought you said a while ago that the United States Steel Corporation was the only company in position to supply the demand.

MR. LINDABURY: I object to that as cross examination, and the mistakes of counsel are not evidential.

By Mr. Corneau:

Q. Is it or is it not the fact that the trade could have been supplied by those one or two other dealers to whom you have referred that had a very limited amount?

A. Probably at a very high price.

Q. Who were those dealers?

A. The situation has come up so often that I cannot remember.

Q. Answer the question.

A. It has to be with reference to the situation, and what month you refer to. It has got to be almost a continuous performance for about two years now, those corners and manipulations in pig tin. There is one running today at this very moment.

Q. Now, let us—

Mr. Severance: You go on and finish your answer and pay no attention to the interruptions of counsel. Keep right on talking until you get through.

Mr. Corneau: All right.

A. They have gone on for about a year and a half or two years. There have been times when it was very difficult to get any material, but those are times—

By Mr. Corneau:

Q. What times? Will you just state, while you are on the subject?

A. The times?

Q. Just fix some time.

A. At least half a dozen times during the last year.

Q. Let us take one of them.

A. I cannot remember.

Mr. Severance: Finish your answer after the interruption.

The Witness: I can remember there were some last summer and some last fall.

By Mr. Corneau:

Q. I do not want exactly the time, but approximately the time.

A. Half a dozen times in the past fourteen months.

Q. All right. You said there was a corner on now, as I understand?

A. Yes; but that corner is partly caused by the fact that you cannot ship any tin from London; there is a dock strike; and, therefore, they are making a corner in New York, and not in London.

Q. Let us go back to last summer. You said there was a corner on during the summer some time.

A. Last summer the pig tin of the world was controlled by a single firm and their associates.

Q. What concerns at that time, last summer, in this country, had pig tin to sell?

A. Well, I suppose every concern that pretends to do a pig tin business would claim they had tin, because they would not want to acknowledge they had none. But you could not get the tin from them except at an exorbitant price.

Q. From whom did you endeavor to get tin?

A. The trade every day.

Q. What firms?

A. Well, there is L. Vogelstein & Company, Pope Metals Company, National Lead Company, and the various brokers. We have not many dealers in tin. E. Baerwald.

Q. What was the general business of L. Vegelstein & Company?

A. They are big copper men, and in recent years they have become large tin men.

Q. Handling it in just what way? Are they brokers or buyers or manufacturers or what?

A. Well, they sell in their own name.

Q. Do you know that they carry their own supplies, or, like you, act as brokers?

A. I do not really know. They sell in their own name, and they are supposed to represent foreign houses.

Q. And by foreign houses do you mean English houses?

A. London houses, yes.

Q. How about the Pope Metals Company?

A. Dealers pure and simple.

Q. Where are they situated?

A. New York City.

Q. To what extent do they deal in tin?

A. They are the largest distributors of lots less than carload, to the trade.

Q. That does not mean very much to me, because I do not know the trade.

A. In other words, I mean to say they do the largest jobbing trade, or what we call a jobbing trade, from a ton up, one, two, three, four and five tons.

Q. They buy their tin directly?

A. They buy wherever they can buy the cheapest.

Q. They buy through you, for example?

A. Yes, sir; wherever they can buy the cheapest. The pig tin market is an absolutely free article of merchandise. You can buy it anywhere in the world. There are no duties. Everyone's money is just as good. The United States Steel Corporation could not buy one cent cheaper than I can to-day.

Q. And do you buy from the Pope Metals Company?

A. Yes, sir; and sell to them.

Q. Buy from them and sell to them?

A. Yes, sir.

Q. How about the National Lead Company?

A. The National Lead Company are very large consumers and at times appear as sellers.

Q. You say at times?

A. Yes.

Q. Do they sell to any great extent?

A. Oh, yes. Of course I do not want to talk about their business, but it would be my guess that the consuming portion of their business is probably 75 per cent, and their selling 25 per cent of the total of that article, pig tin.

Q. How about Baerwald?

A. Baerwald is a representative of a London house, L. Lazarus & Sons. There are some other sellers who are not dealers, who represent foreign agencies that are not mentioned here.

Q. Yes; I understand. There are only two of those you mention that are dealers?

A. Yes, sir; but there are other concerns mentioned there who represent foreign agencies.

Q. Yes. Now to come back to this matter of prices last summer, at what prices were these other concerns offering pig tin for sale during this period which you spoke of when the corner was on?

A. I cannot remember the prices, but if——

Q. Very well——

MR. SEVERANCE: Just a moment, Mr. Corneau.

THE WITNESS: (Continuing.) I could not remember the prices.

MR. SEVERANCE: He is trying to explain.

MR. CORNEAU: I am entitled to have his answer limited to my question. You may ask him later on.

By MR. CORNEAU:

Q. At what price did the Steel Corporation or the United States Steel Products Company sell?

A. They sold at what was supposed to be the market, what the buyers were ready to pay; the best that I could do for my customers.

Q. How was that price with reference, let us say, to the average price of tin plate? Was it high or low, in this country?

A. They did not charge any exorbitant price.

Q. I did not ask you if they did. I asked you how it compared with the average price, say, the preceding six months in this country?

A. Of course it would be higher.

Q. About how much higher?

A. It is a hard question to ask me. I think the price of tin fluctuated on a steadily advancing basis from about 35 cents up to 50 cents a pound, in New York in that year. That is my rough remembrance. I do not remember. And, naturally, the times they sold were in those strained and corner times, and, naturally, the price was higher than at previous times.

Q. The prices were the high prices that had resulted from those times?

A. The price was, undoubtedly, higher than it was several months before.

Q. I am trying to get at about how much higher it was. You say the total range of prices was from 35 to 50 cents?

A. I would not care to give my testimony on the figures.

Q. Only approximately?

A. May I refresh my recollection?

Q. Yes.

(The witness consulted his book of metal statistics.)

Q. Are you now able to state?

A. Probably two or three cents a pound, in the case of the May corner, I think it was.

Q. Are you able to give us from refreshing your recollection——

A. I cannot, because I see these figures only contain the monthly average. We have some very violent fluctuations of several cents a pound, sometimes, in a day.

Q. And the fluctuations, according to your recollection, as you gave it a while ago, were 35 to 50 cents—within a limit of 35 cents on the one hand and 50 cents on the other?

MR. SEVERANCE: Oh, no, no. During the course of months; not from day to day.

MR. CORNEAU: I am speaking of the total range of fluctuations.

THE WITNESS: The average fluctuations were probably from about 41 to 46 cents; the actual fluctuations, I think, were from about 35 cents to 50 cents, if you want the highest points.

By MR. CORNEAU:

Q. That is what I mean.

When were these high prices, the top range, reached? During what periods? I do not mean in months, but with reference to these times or these corners on the market.

A. They were certainly reached in June and then again in December of 1911.

Q. What was the condition in June, 1911, with reference to the corners abroad?

A. There have been so many of them that it is hard for

me to remember that particular one. As I have said before, for two years there has been going on a movement to control the supplies of that material and to squeeze the shorts, if they existed in London, and to get all you can out of the American consumer. As I said before, that was almost a continuous performance.

Q. Then these occasions, if I understand you correctly now, have been in the past two years? Is that right?

A. Yes; principally within the past two years.

Q. And the first time that any sale was made by the United States Products Company through you to other plate makers in this country was within a period of two years?

A. Yes.

Q. About how long ago, if you can fix it any closer?

A. I have made a good many sales for them within this year or a year and a half; within a year and a half.

Q. You do not recall that you made any prior to a year and a half ago?

A. I will testify that I didn't make any prior to two years ago.

Q. All right. Mr. Severance also asked you for your knowledge as to whether or not theAmerican Tin Plate Company imported black plates during the year or so immediately following its organization. You stated, I believe, that you had no knowledge on that subject. Are you able to state whether or not, during the first year or two of its organization, the American Tin Plate Company closed down and dismantled mills for the manufacture of black plate which it had previousiy acquired, within a couple of years?

MR. SEVERANCE: You are asking for his own knowledge?

MR. CORNEAU: Yes.

THE WITNESS: It is my business to follow a matter like that. Shall I answer fully?

MR. CORNEAU: Oh, yes.

THE WITNESS: The American Tin Plate Company was started by the amalgamation of 276 mills. Besides that, at the formation of the company, they had to take over the contracts for tin mills that were not completed. They afterwards purchased, in the next two or three years, either 40 or 41 mills. There have been dismantled or sold 135 mills.

There have been built new mills to the extent of about 40 or 41. But in that dismantling of those mills, in a great many cases, it meant the transference of the machinery to other points; to other mills.

MR. SEVERANCE: Of the Tin Plate Company?

THE WITNESS: Of the Tin Plate Company, in order to consolidate their manufacture.

MR. SEVERANCE: Where they continued to be used?

THE WITNESS: I presume so. In some cases a very poor mill would be broken up, but a good many were used, according to my personal knowledge.

By MR. CORNEAU:

Q. Are you able to state to what extent mills were dismantled during the first two years, say?

A. The first mill I have not seen mentioned in any of the reports, and that is a mill over in Brooklyn, Sommers Brothers, who had a three-mill plant. I have not seen it mentioned in any of the reports that I have been over. That I do not think ever ran at all. It was immediately dismantled.

There was another one. There was Marshall Brothers of Philadelphia, that was very quickly dismantled, but I would not care to give testimony as to the dates. I will give testimony as to the fact and the number.

Q. Let us see. Can you recall the Baltimore Tin Plate Company?

A. I do not think that ever ran after it was taken over.

Q. Can you state, generally, whether or not quite a number of mills were dismantled during the first year or two years of the organization?

A. I do not think many were dismantled in the first two years. I think that the bulk of the changes took place between 1902 and 1906.

Q. How about the Aetna Standard Iron & Steel Company's works? Do you recall when that was dismantled?

A. That ceased operations as a tin plate mill about 1900.

Q. How about the Blairsville Rolling Mill and Tin Plate Mill, Blairsville, Pennsylvania?

A. I think that was one of the early ones.

Q. How about the Britton Rolling Mill?

A. That was one of the very earliest. I do not think that ever ran. That was at Cleveland.

Q. How about the Cincinnati Rolling Mill & Tin Plate Company?

A. That was one of the earlier ones to close.

Q. And the Cumberland Steel & Tin Plate Company?

A. The same.

Q. And the Hamilton Company, West Newton, Pennsylvania?

A. I do not remember that.

Q. You have already mentioned Marshall Brothers, have you not?

A. Yes.

Q. A few moments ago?

A. Yes.

Q. And the Neshannock Sheet & Tin Plate Company?

A. At New Castle?

Q. Yes.

A. I think that was one of the earlier ones; my remembrance is 1900 or 1901.

Q. And the Ohio River Sheet & Tin Plate Company?

A. I do not remember.

Q. The Washington Sheet & Tin Plate Company, Washington, Pennsylvania?

A. There have been so many Washington Tin Plate companies. However, I think that one closed in about 1901 or 1902.

Q. With reference to the dismantling of different plants, can you state, generally, whether or not, in dismantling all the mills of a particular concern which had been taken over were closed down?

A. I do not know.

Q. I am speaking, now, with reference to these instances that you have had in mind.

A. I could not tell you. That is not within my province. The other is. Those statistics are within my province. The others are not.

MR. CORNEAU: That is all.

RECROSS EXAMINATION,

By Mr. Severance:

Q. You stated, as I understood you, in answer to Mr. Corneau, that there were other dealers or sellers from whom tin could have been procured at exorbitant prices during these times when you procured tin from the Steel Products Company. Is that so?

A. There were other dealers that had tin.

Q. And held it at exorbitant prices?

A. That held it at prices higher than I bought it from the Steel Company.

Q. As a matter of fact, you went to Mr. Farrell, I believe you said?

A. I did.

Q. And you laid before him the situation of your customers who were the competitors of the Steel Corporation or its subsidiary and asked him to let them have pig tin out of the stores they had on hand, and he did that, at what you regarded as fair prices, not exorbitant prices?

A. That is right. I appealed to him as a moral obligation; that he was a consumer and in the same boat exactly; that these fellows abroad were exploiting the necessities of the American consumer, and that there was an obligation on the part of everybody to help the other man to the utmost of his ability until we could get out of the situation that we were put into through no fault of ours. Mr. Farrell, I must give him credit immediately saw the point, and he supplied me with material. I sold some of those tin plate mills you have mentioned there, and I also sold my other customers. He would not sell to a dealer at any price or to a speculator.

Q. He would not sell to a dealer or to a speculator at any price?

A. No; not unless it was a bona fide consumer. I got material from time to time from him.

Q. And these consumers were in competition with the American Sheet & Tin Plate Company in the market, in the sale of tin plate?

A. They were independent American manufacturers of tin plate.

MR. SEVERANCE: That is all.

(Whereupon, at 3:50 o'clock p. m., an adjournment was taken until to-morrow, Wednesday, June 12, 1912, at 10:15 o'clock a. m.)

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, [redacted] 1919

No. 481. 1916

THE UNITED STATES OF AMERICA, APPELLANT,

vs.

UNITED STATES STEEL CORPORATION ET AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF NEW JERSEY.

VOLUME 4.

PLAINTIFF'S TESTIMONY.

FILED MAY 12, 1916.

(25292)

VOLUME IV.

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SEVENTEENTH DAY.

Room 720 Custom House,
New York, N. Y.,

Wednesday, June 12, 1912.

The hearing was resumed at 10:15 o'clock a. m. before SPECIAL EXAMINER JOHN ARTHUR BROWN.

Appearances the same as heretofore noted.

A. F. HUSTON,

called as a witness on behalf of the United States, being first duly sworn, testified as follows:

DIRECT EXAMINATION,

By MR. DICKINSON:

Q. Mr. Huston, where do you live?

A. I live at Coatesville, Pennsylvania.

Q. In what business are you?

A. I am president of the Lukens Iron & Steel Company, among other things.

Q. How long have you been with the Lukens Iron & Steel Company?

A. Since 1872.

Q. Where is the plant of that company situated?

A. Coatesville, Pennsylvania.

Q. In what business is it engaged?

A. Manufacture of steel plates at present.

Q. How long has it been manufacturing steel plates?

A. Manufacturing steel since about 1880, as well as iron; first it was all iron, and then tapered off to steel, and now it is all steel.

Q. How long has it been all steel?

A. Since about 1896 or 1897, I think.

Q. Has it any subsidiary or allied companies that make iron?

A. No subsidiaries. We have a separate company that is owned by ourselves for making pig iron in Virginia, the Allegheny Ore & Iron Company. We own the ore and blast furnaces there.

Q. In 1900 and 1901 where was your company selling its steel plates—in what part of the country?

A. All over the country.

Q. Was it selling any abroad?

A. We had sold some small lots abroad, yes, sir.

Q. Please state during those years who were your principal competitors in the sale of steel plates generally in the United States.

A. Carnegie Steel Company—well, all the manufacturers of steel plates were our competitors.

MR. LINDABURY: Had you finished your answer?

THE WITNESS: No; I was just starting.

MR. LINDABURY: I did not get the question.

(The question referred to was read by the stenographer as above recorded.)

MR. LINDABURY: Now read the answer and see if that is satisfactory.

(The answer was read by the stenographer as above recorded.)

THE WITNESS: That is comprehensive.

By MR. DICKINSON:

Q. Was the Illinois Steel Company one of your competitors?

A. It was.

Q. The American Steel & Wire Company?

A. Yes.

Q. Was the Federal Steel Company a competitor?

A. The Illinois Steel Company was a part of the Federal Steel Company.

Q. They had been absorbed at that time by the Federal?

A. I do not recall just when they were absorbed.

Q. State whether or not in 1900 you attended any meetings in connection with the formation of a plate association, and please state, if you can, without my repeating a number

of questions, where these meetings took place severally, and what was done and who were present.

A. There were meetings in 1900, as I recall the date, in New York, attended by the representatives of a number of plate manufacturers.

Q. I would like you to state where the first meeting took place, if you remember.

A. In New York.

Q. Was that at the Waldorf or not?

A. Yes; the Waldorf-Astoria.

Q. Who were present at that meeting?

A. Mr. Schwab, Mr. Willis King, Mr. Gilbert McCauley, representing the Central of Harrisburg, Mr. William Park, representing the Crucible Steel Company, Mr. William—well he was president of the American Steel & Wire Company. I know his name perfectly well. Billy Palmer, they called him familiarly.

Q. Who was that?

A. William Palmer of the Steel & Wire Company.

Q. Was the Illinois Steel Company represented?

A. Mr. W. P. Worth was there. I do not recall whether or not the Illinois Steel Company was represented at that first meeting; they may have been or may not have been. If they were, it probably was Mr. Buffington who attended.

Q. You do not recall positively as to that first meeting?

A. No.

Q. State what took place at that first meeting?

A. At that first meeting it was represented the advantage it would be to have some association to have reasonable prices and avoid the destructive competition that we had been in, especially from 1892 to 1896; destructive, when the common laborer was paid 90 cents a day and poorly employed at that, in some sections, and very little doing. And recognizing the advantages to be gained, by the plan that had already been followed in European countries and favored there by the governments, we concluded it would be advisable to have some association to regulate—well, to be able to establish certain reasonable prices that would not be destructive, and to prevent unduly inflated prices at the same time, which was done. And as a basis of going on with that, each one was to have a

percentage. That percentage would be established by the output of the previous year of the respective concerns. And some did not have percentages with them, as they were requested to have, and it was carried over to another meeting. I think there were two such meetings.

Q. Where did the next meeting take place?

A. At the Waldorf Astoria.

Q. Who was at that meeting?

A. I cannot recall now whether there were two meetings for that or not. There may have been only the one. But at the second meeting, when the percentages were established, there were some errors in tonnages from which the percentages were figured. The percentages were figured out for each concern, as to what they should have, the intention being that those who thought it would be better, owing to trade conditions, not to run, could be suitably reimbursed without running, and those who ran beyond the percentage would have to pay in to reimburse those who did not run.

Q. I do not think you caught the question. I will ask to have the question read.

A. I was coming to that. I understand the question. I thought it would be wise to bring these things in first.

Q. Of course I do not want to prevent any explanation you desire to make, Mr. Huston, but if you will fix your mind on my questions and answer them, I think it will be better.

A. I am coming to that right away. I had not finished the first part. That is the reason I continued on that.

At the second meeting—it may have been the third—but when these percentages had been figured out and we came together to further the matter, there was a general representation of various concerns. Mr. King was there again, as I recall it, and Mr. McCauley I know was, and Mr. Worth and Mr. Park. Judge Gary attended that meeting, and just who else did I do not remember. Oh, yes, Mr. Schwab was there.

Q. State whether or not you agreed upon a form of a written agreement, either at that meeting or at any of those meetings?

A. I presume so. I do not remember the details of it. We went through a number of things in the way of arranging, and the agreement itself was drawn up by counsel.

Q. Was the form sent to you for printing?

A. Yes. We also agreed——

Q. Will you please answer that question?

MR. LINDABURY: For printing?

MR. DICKINSON: Yes. That is the question.

MR. LINDABURY: No. It was sent to him to be printed?

MR. DICKINSON: Yes. Put it that way: "To be printed", if that makes it any clearer.

By MR. DICKINSON:

Q. You say yes?

A. Yes.

Q. Did you have it printed?

A. Yes.

Q. State what you did with it?

A. It was printed, and copies were sent to the various members.

Q. For what purpose?

A. To be signed.

Q. State whether or not it was signed by any of them.

A. Some were signed and some were not. I got word that the agreements would have to be changed, and I called them in.

Q. What did you do about it?

A. I called them in.

Q. What did you do with them?

A. Some were signed and some were not signed.

Q. What did you do with those that you called in?

A. I destroyed them, in accordance with our common practice with all useless papers.

Q. State whether or not, after that, another agreement was prepared?

A. Another agreement was prepared.

Q. Was that signed by any of them or not?

A. Yes; it was.

Q. Did you produce a copy of that agreement at the Stanley Hearing?

A. No; because I had none.

Q. There was a copy produced there, was there?

MR. LINDABURY: No.

THE WITNESS: No. That was the destroyed copy.

By MR. DICKINSON:

Q. There was no copy produced of the one that was signed? What became of that?

A. I presume it was held by the Secretary of the meeting, Mr. Temple.

Q. You do not know, yourself, what became of it?

A. I do not.

Q. State whether or not you operated under that agreement, and for how long a time.

A. That is, under the second, signed agreement?

Q. Under the signed agreement, yes.

A. Yes; we operated under it, as I recall, until about 1904.

Q. Who were the members who operated under that agreement?

A. I shall see if I can get them all straight. There was the Carnegie Steel Company; the Illinois Steel Company—whether they are called the Illinois or the Federal is immaterial;—the Carnegie Steel Company, the Illinois Steel Company, the American Steel & Wire Company, which afterwards, however, ceased to make plates, and was dropped; just when, I do not recall; the Jones and Laughlin Company; Otis Iron & Steel Company. That is five.

Q. And your company?

A. Our company.

Q. That was the Lukens Iron & Steel Company?

A. The Lukens Iron & Steel Company; Worth Brothers Company; Central Iron & Steel Company.

Q. How about the Crucible?

A. And the Crucible.

Q. And the Glasgow Iron Company?

A. And the Glasgow Iron Company; and the Tidewater Steel Company, which afterwards went out of existence; and, later on, the Cambria Steel Company came in.

Q. State whether or not, under that agreement under which you operated, there was an apportionment of percentages among the various members?

A. Yes; I stated that.

Q. That was the original one, in regard to which you stated that. I am speaking of the one under which you actually operated.

A. Yes.

Q. How were those percentages reached?

A. They were based on the outputs of the previous year. In some cases they were not exactly right, because certain members made explanations that they were entitled to more, because of certain matters that prevented their making their proper outputs; so that there were some compromises on that account.

Q. You took the basis of their previous years and added them up, and that made 100, did it?

A. In a general way, yes.

Q. And you apportioned the 100 upon an agreed basis between all of you?

A. Yes.

Q. State whether or not any money was paid into the association?

A. Yes.

Q. Do you remember the amount that was paid in by each?

A. For each one per cent. of allotment I think there was $1,000 put in.

Q. What was the purpose or the use that was made of that?

A. The purpose of that was to put up and maintain $100,000. There were penalties for failure to keep the agreement. As a matter of fact, there was never one penalty imposed, to my knowledge, but that was the purpose.

Q. That was the purpose of the money, and the money was paid up?

A. Yes.

Q. Did you have a commissioner or not?

A. It was paid into a treasurer's hands. The Secretary acted as commissioner.

Q. What were the duties of the commissioner?

A. The duties of the commissioner were to——

MR. LINDABURY: You are asking, now, for the contents of the agreement?

MR. DICKINSON: No. I am asking what they did.

MR. LINDABURY: You asked what the purpose was. That is not what they did.

By MR. DICKINSON:

Q. You said they paid in money?

MR. LINDABURY: That appears by the writing, and not otherwise. I ask the stenographer to read the question.

(The stenographer repeated the pending question, as follows:

"Q. What were the duties of the commissioner?"

MR. LINDABURY: That is objected to as calling for the contents of a written instrument.

By MR. DICKINSON:

Q. What did the commissioner do, under this arrangement under which you operated?

A. He kept the minutes of the meetings. He received the tonnages of the various concerns reported and kept a record of the total output of each concern, month by month; and figured the percentage of actual output of each one; and those who were short and those who were under their actual allowance percentage.

Q. State whether or not reports were made by the different members to the commissioner from time to time?

A. They were.

Q. State whether or not he, in turn, made reports to all of you of the sales and shipments of the other members.

A. Yes.

Q. And, in that way, you each acquired a knowledge of the business done by the other, under that agreement under which you were operating?

A. Exactly.

Q. State whether or not you had a minimum price list, agreed on?

A. We did have. It was not always the same; but it was issued from time to time.

Q. But, from time to time, you did have a list that was common to all of you?

A. Yes.

Q. And agreed on by all of you?

A. Yes.

Q. How long did you operate under that agreement?

A. I think it was until some time in 1904. The records will show.

Q. Did you file at the hearing before the Stanley Committee the statements that were made from time to time showing the monthly shipments by each company and the deductions as prescribed by pounds, the net shipments, exemptions and taxable shipments?

A. I filed certain papers there, having been subpoenaed to do so.

Q. The originals are there, are they? You did not get them back?

A. No, sir. They still have them.

MR. DICKINSON: I would like, instead of introducing all of these originals, just to introduce one for each year, the same as if they were originals, and have them copied from the Stanley hearings. Otherwise I can get the originals.

MR. LINDABURY: Why can we not have the originals?

MR. DICKINSON: We can, if you insist on that, if they have not been lost. I do not know where they are.

THE WITNESS: Mr. Stanley promised to return them.

MR. DICKINSON: I was told, yesterday, that Mr. Huston had them.

THE WITNESS: Mr. Stanley promised to return them, but he never did.

MR. LINDABURY: I do not suppose they have been burned or otherwise destroyed by the Stanley Committee. I hope not.

MR. DICKINSON: Why can we not introduce them as we have other papers, subject to correction?

MR. LINDABURY: What do you want to introduce?

MR. DICKINSON: The ones for January, down to 1904. I have marked them here.

MR. LINDABURY: The ones where you have turned down the pages, in this report of the Stanley hearings?

MR. DICKINSON: Yes. I will show you. (Indicating to counsel.)

MR. LINDABURY: We will admit the copies of the statements contained in the Stanley record for December, 1900, and January of each succeeding year to and including 1904, with the same effect as if the originals left by the witness with the Stanley Committee were produced and put in evidence.

We also admit that statements similar to those stipulated into the record were sent by the secretary to each member of the association each month from the time it was formed, that is, from December, 1900, to and including December, 1904.

We make this stipulation upon the understanding that counsel for the Government will permit us to offer any of these other monthly statements that we may desire, after examination, using the Stanley Record in lieu of the originals.

MR. DICKINSON: Counsel for the Government assent to this.

MR. LINDABURY: It will be understood, I suppose, that all these are subject to correction after comparison with the originals, if any doubt should arise as to their accuracy?

MR. DICKINSON: Yes.

MR. LINDABURY: I do not suppose we will want to, but we might find on going through them there is some obvious misprint.

MR. DICKINSON: We have been pursuing that course right along. That is all.

MR. LINDABURY: Are you through?

MR. DICKINSON: Yes.

CROSS-EXAMINATION

By MR. LINDABURY:

Were these meetings held at stated times or irregularly, or were there meetings after the first three? I do not know whether you said there were.

A. Yes; there were meetings.

Q. The question is whether they were held at stated intervals or irregularly.

A. There were certain intervals, once a month, when we usually met; it was not invariably so, as I recall it.

Q. You mentioned Judge Gary as being present at one of those early meetings. Do you remember whether he attended any later one or not?

A. I do not think he did; not to the best of my recollection.

Q. Were these prices that you undertook to fix lived up to, or were they more or less departed from?

A. They were more or less departed from.

Q. And no penalties for doing those things were ever imposed, you say?

A. No.

MR. LINDABURY: That is all, Mr. Huston.

MR. DICKINSON: I think I will let you go.

(Witness excused.)

C. W. BRAY,

a witness previously sworn on behalf of the United States, was recalled and testified further as follows:

MR. CORNEAU: I think there is nothing more we want to ask Mr. Bray. We will turn him over for cross-examination.

MR. SEVERANCE: I think I will ask him a few questions.

CROSS-EXAMINATION.

By MR. SEVERANCE:

Q. Mr. Bray, when you were on the stand day before yesterday counsel developed from you that certain mills in the American Tin Plate Company were taken down, dismantled, moved, or something of that sort?

A. Yes.

Q. I want to address your attention to that question and call your attention to some of these mills that were men-

tioned by counsel in his examination. Take the mill at Montpelier, Indiana, if you are able to tell as to that.

A. In regard to that I would say——

MR. CORNEAU: Would you mind giving me the company names as you go along, so I may be able to follow it?

THE WITNESS: Montpelier is not on your list. You did not ask about that. That is one you did not have. I will say that I have looked up some records and refreshed my memory on that so there will be slight differences from what my testimony was the other day.

By MR. SEVERANCE:

Q. I want to develop the fact with reference to all these wills where there were movements of machinery the reasons for them.

MR. CORNEAU: I understand. I just wanted to be able to follow your list with the Bill or something. Suppose you let Mr. Bray make the corrections he says he wants to make.

MR. SEVERANCE: I will ask him about them and give him an opportunity.

THE WITNESS: There are just a few. There will not be much difference. I want to give them to you right this time.

By MR. SEVERANCE:

Q. As I understand it, the mill at Montpelier, Indiana, was moved?

A. Yes, sir.

Q. To what point was it moved?

A. It was moved to American Works, Ellwood, Indiana, making that plant a 26-mill plant.

Q. There were six mills in the Montpelier plant, were there not?

A. Yes, sir.

Q. When was that done, if you remember?

A. 1902.

Q. And that was done for the purpose of consolidating the business of those two in one plant?

A. Yes, sir.

Q. Were they in the same neighborhood?

A. Yes, sir.

Q. The Atlanta Steel & Tin Plate Company?

A. That plant had six mills, and it was dismantled. Such machinery there as could be used in any of the other plants was stored and used, but a good deal of the machinery was scrapped.

Q. The Beaver Tin Plate Company, which you said was your company?

A. The Beaver Tin Plate was seven mills, and it was sold as an entirety to Berthold Goldsmith complete with machinery and equipment in 1904.

Q. Is it still operated by him?

A. Yes, sir.

Q. As a tin plate manufacturer?

A. No, sir; he is a brass manufacturer.

Q. He is making brass with it?

A. Brass sheets, yes, sir.

Q. The Champion Iron & Steel Company of Muskegon?

A. That is a six-mill plant. The machinery was moved to Guernsey plant, Chester works, Mercer works, Sharon works; and the real estate was sold.

Q. The Canonsburg Iron & Steel Company?

A. The Canonsburg Iron & Steel Company was a five-mill plant and was sold as a going proposition to the Canonsburg Steel & Iron works in 1902 and is still in operation.

Q. The Cumberland Steel & Tin Plate Company?

A. The Cumberland Steel & Tin Plate Company has five mills. The machinery was transferred to Monessen and the buildings and the property sold to H. H. Dickey in 1902.

Q. What is that used for now?

A. I think that is the one I said I thought N. & G. Taylor had in my testimony; I think they have it as a tin plate mill to-day. That is my impression.

Q. It was sold by the company to Dickey?

A. Yes, sir; and Dickey subsequently sold it to some one else; I think it was N. & G. Taylor.

Q. It eventually arrived in the hands of N. & G. Taylor Company?

A. That is my belief.

Q. That is what you stated day before yesterday?

A. Yes, sir.

Q. Now the Ellwood Tin Plate Company of Ellwood, Pennsylvania?

A. That was a six-mill plant and such machinery as could be used was used at other plants as spares, and a part of the machinery was moved to—

MR. CORNEAU: Pardon me. I did not notice before that Mr. Bray is using a memorandum.

THE WITNESS: Yes, sir; I am using a memorandum.

MR. CORNEAU: Will you just tell me when you got that memorandum and where you got your data?

THE WITNESS: I telegraphed to the man who was my assistant in Pittsburg when I was working for the company, and asked him to get the information from his records.

MR. SEVERANCE: I assume there is no objection to that.

MR. CORNEAU: And this memorandum you now have is the memorandum furnished by him to you?

THE WITNESS: Yes.

MR. DICKINSON: Who was he?

THE WITNESS: He is now the chief engineer of the American Sheet & Tin Plate Company.

MR. CORNEAU: You telegraphed for it after you left the stand the other day?

THE WITNESS: After I left the stand, yes, sir. I knew I had made some mistakes, and I wanted to try to get it accurate as nearly as I could.

By MR. SEVERANCE:

Q. With your recollection refreshed by this information are you able to testify to this from your knowledge?

A. Yes, sir; I am able to testify to this as correct, and I will say there are other things in the information that he sent me that he did not have right, and I had to change, because I was ahead of him, and he did not know about some of the older changes, and in those cases I gave—

Q. You are giving your own knowledge?

A. I am giving my own version.

By Mr. Dickinson:

Q. Do you know, independently of that memorandum?

A. Yes; I actually did the moving and dismantling of those plants. I was the man who had charge of that work, and I think I know more about it than any person now working for the Steel Corporation, because most of those people have gotten away; but they had certain records and drawings there that they could refer to that would enable me to refresh my memory. My whole object is to try and get it right.

Mr. Corneau: Oh, I understand that, of course.

Mr. Severance: Now read the answer as far as it has gone.

(The answer was read by the stenographer as above recorded.)

The Witness: (Continuing.) And part of the machinery was moved to Laughlin plant, Martin's Ferry.

By Mr. Severance:

Q. Are you speaking of the Ellwood Company now?

A. Ellwood City, Pennsylvania. That is one of the mistakes that is on this memorandum I have here, and I am changing it.

Q. I see. Proceed.

A. Part of the machinery was moved to the Laughlin plant at Martin's Ferry, Ohio, and the real estate was sold to the Pittsburg Company in 1905.

Q. Now the Falcon Tin Plate & Sheet Company, Niles, Ohio?

A. That was operated until 1907.

Q. That was a six-mill plant?

A. That was a six-mill plant. The machinery was moved to New Philadelphia Works, and Laughlin plant at Martin's Ferry, Ohio.

Q. That was operated right along up until 1907?

A. Yes, sir.

Q. Hamilton & Company, West Newton, Pennsylvania?

A. That was a two-mill plant. Some of that equipment was transferred to other plants; part of it was wrecked, or

scrapped, and the property was sold to the Pennsylvania Mining Company in 1902. I mean real estate when I say property.

Q. The Irondale Steel & Iron Company, Middletown, Indiana?

A. That was a six-mill plant; it was dismantled in 1903; part of the machinery was transferred to the American Works, and the property divided into lots and disposed of.

Q. The American Works was at Elwood, Indiana?

A. Yes, sir; the Elwood plant.

Q. That is the large plant you spoke of?

A. Yes, sir; the large plant.

Q. Was the Irondale plant in the same region?

A. Yes, sir; the Irondale plant was about twenty miles away.

Q. So that the plant of the American Works could take care of the trade just as well?

A. Yes.

Q. And have it combined in one building?

A. It was in the district.

Q. The Johnstown Tin Plate Company, Johnstown, Pennsylvania?

A. That was a two-mill plant. The equipment was moved to the National Works at Monessen, Pennsylvania. The property at Johnstown was sold in 1902.

Q. The Anderson Works at Anderson, Indiana?

A. That was dismantled in 1900.

Q. The Anderson Works—are you sure?

A. I think it is wrong. That is what it says on my memorandum here, but I think it is wrong.

Q. I do not think it does say that. If you will look at your memorandum, it says operated until 1905.

MR. DICKINSON: I object to counsel making a statement. Ask the witness what he knows about it. I do not think that is proper.

THE WITNESS: I will say this memorandum was very hurriedly made this morning. I just got here this morning. I see there are errors on it now, and I am trying to correct

them. I have corrected a few as I went along. My whole object is to give you the information as accurately as I can.

MR. DICKINSON: We do not question that.

THE WITNESS: I think you will all see it does not vary very much from my recollection the other day; but this statement I have here says the Anderson Works were dismantled in 1900.

MR. SEVERANCE: My copy does not state that.

MR. CORNEAU: Never mind what the statement is. Just tell us what the fact is.

MR. DICKINSON: If you know, state it; if you do not know, say so.

THE WITNESS: I stated in my testimony the other day that the Anderson Works were dismantled. I thought it was dismantled a good deal later than that; I am sure it was. Just excuse me a moment.

MR. SEVERANCE: Do you mind if I look at his memorandum?

MR. DICKINSON: At his memorandum?

MR. SEVERANCE: Yes.

MR. DICKINSON: No.

THE WITNESS: I think the stenographer has made a mistake.

MR. SEVERANCE: (After examining witness' memorandum) The stenographer has not made a mistake. Look right under that and it says operated up to 1905.

MR. DICKINSON: What stenographer made that memorandum?

THE WITNESS: One of the stenographers of the Steel Corporation.

MR. DICKINSON: That was furnished you by the Steel Corporation?

THE WITNESS: I tell you it was furnished me by the chief engineer of the American Sheet & Tin Plate Company.

MR. DICKINSON: That particular memorandum you have was furnished by the Steel Corporation?

THE WITNESS: Yes, sir.

By Mr. Severance:

Q. It was written off this morning, was it not, from a telegram?

A. From a letter, yes. The way this was obtained was that I called on the long distance telephone Mr. Kimball, who is now chief engineer of the Tin Plate Company, and who had charge under me of the mechanical work after I became president, and a man I put there; and he has the drawings of the company. And by going through the drawings and picking out the dates when these changes were made, he could get the actual facts, instead of taking my recollection.

Mr. Dickinson: When did you telephone?

The Witness: I telephoned yesterday—or, I telephoned when I left here.

Mr. Dickinson: Where from?

The Witness: From the Steel Corporation's office.

By Mr. Severance:

Q. Day before yesterday?

A. I telephoned when I left here, because I wanted to check my information.

Q. That was your own idea?

A. That was my own idea, and my own suggestion, because I felt there were some mistakes in a long statement of that kind, of a number of mills.

Mr. Severance: As a matter of fact I think you will find when you check this up with his testimony given day before yesterday there is practically no difference. There may be a difference of a year, or something like that, or in the number of mills, but it is almost identical. There were a few errors he said he wanted to correct.

The Witness: This "dismantled in 1900" is written very close. It is written on this memorandum, closer to and above the Anderson Works, and I mistook that as referring to the Anderson Works here, but when I thought of it myself I realized it was wrong.

By Mr. Severance:

Q. You said a moment ago that was a mistake.

MR. CORNEAU: The point is that we have no objection to your using this memorandum to refresh your recollection, but we want your recollection and not what you find on the memorandum where there is a difference between the two. Do you understand?

MR. SEVERANCE: So do we want that.

THE WITNESS: I told you before I have made changes previously.

MR. CORNEAU: The question came up because you said you read from the memorandum and Judge Dickinson objected to your reading from the memorandum.

MR. SEVERANCE: He said, you remember, a moment ago, that as to one of these mills his recollection did not agree with the information he got from Mr. Kimball. He is giving his recollection.

THE WITNESS: This Anderson Works, Anderson, Indiana, had seven mills; it was operated up to 1905. The equipment was dismantled and part used at the Scottdale & Wood Works.

MR. SEVERANCE: Is that your best recollection?

THE WITNESS: Yes.

MR. SEVERANCE: That is independent of the information you got from Mr. Kimball?

MR. CORNEAU: Part of it was used, where did you say?

THE WITNESS: At the Scottdale & Wood works. The Wood Works is at McKeesport.

By MR. SEVERANCE:

Q. The Ohio River Sheet & Tin Plate Company, now, of Rochester?

A. That was a two-mill plant. That was abandoned in 1900. That property was sold to Charles C. Townsend, and the machinery was moved to other plants and used as spares.

Q. The Reeves Iron Company, Canal Dover, Ohio?

A. That was a six-mill plant. That machinery was transferred to the National Works, Monessen. A part of the property was sold to Frank H. Shaw, in 1903, and part retained.

Q. The Star Tin Plate Company, Pittsburg?

A. They had eight mills. Part of the machinery was

moved to New Philadelphia, Ohio, Old Meadow, Scottdale. Old Meadow is the name of the company. Scottdale is the location.

The Aetna Standard Works at Bridgeport—

Q. What was the particular reason for moving that machinery in the Star case?

A. The Star plant is located on Tenth Street, near Penn, in Pittsburg, right near the Union Depot; and that real estate, I suppose, is worth a million dollars. It is a very valuable piece of property. It is right in the business section of Pittsburg, and it was too valuable a piece of property, and the location was not the best, anyhow, on account of the congested condition, for a mill.

Q. Was there any space to enlarge the mill?

A. No. You could not extend that mill. It was so constructed that we had to bring coal in, if we used coal, with wagons, to the furnaces, which made it very expensive.

Q. That was the reason for moving that machinery?

A. Yes; all those reasons.

Q. Those were the reasons?

A. Yes.

Q. Wallace, Banfield & Company, Irondale, Ohio?

A. That was a four-mill concern, and that plant was dismantled. The machinery was partly worn out, and scrapped. The property was sold to W. Banfield and William Banfield, in 1903.

Q. There has been a good deal of reference here to the movement of some of these mills or machinery to Monessen. What is the Monessen plant? Can you describe that?

A. Yes. The Monessen plant, when we acquired it, was known as the National Plant, I think, at Monessen. It was an eight-mill plant. It was located on the Monongahela River, right in the coal district, where coal could be brought in, I think, for $3 a car, and there was a very low rate of freight on coal, and it was located on the river so that we could dispose, readily, of the ashes and waste, and could get good water; and it was really an ideal site for a tin mill. It was located near to the Carnegie Steel Works, where we get our bars. They were just across the river, some of them. So that the freight on steel was low; the freight on coal was low;

the disposal of ashes and waste was very favorable; and we had a large piece of property there. So we moved these mills to Monessen, and enlarged that plant. It was, when I left the company, a 23-mill plant. We enlarged it from an eight-mill plant to a twenty-three plant.

Q. That was for the reasons that you have stated?

A. Yes, sir.

Q. It was a first class location for a large mill?

A. Yes, sir.

Q. There are some of these mills, I observed, that were dismantled out in Indiana?

A. Yes.

Q. Was there any reason connected with the fuel supply that had anything to do with that?

A. Yes. All these Indiana mills, the Montpelier, Indiana, the Atlanta Steel & Tin Plate Company, the Anderson plant, and all of them out there that were dismantled originally when we took them over, that is, when the tin plate company took them over, had their own gas wells, or were very closely located to gas wells owned by other people who were supplying them with gas.

Q. That is, natural gas?

A. Yes, and under natural gas conditions; they were very economical mills to operate.

Shortly after we took over the mills out there, the Indiana Gas Supply began to fail. That failure made it necessary to spend a great deal of money at those plants if we operated them, to equip them for coal. When they had been built the engineers never had any idea that the gas supply was going to play out, evidently, because they built their buildings in such a way, and placed their machinery and boilers in such a way that it was very difficult to get the coal to them. You could not bring the track up in front of the boilers and bring the car of coal in, but you would have to have some auxiliary means of handling it to them, in many cases. So, after considering the thing very carefully, it was decided that we would take the American Works, which was the largest of all those units and combine all these plants there, and equip it for using coal economically, putting in the best system of coal handling and stokers for our boilers, and mechanical means of handling

our ashes. We put in one coal unit there, for taking care of that whole proposition out there, and moved the majority of these plants to the American Works.

Q. Then the dismantling of those plants was by reason of the imminent failure of that gas supply?

A. Yes, sir.

Q. And, as I understand you to say, up to the time that gas supply was failing, they were all right, and were operating?

A. Yes.

Q. And could have been continuously operated?

A. Yes, sir.

Q. Was there any investigation made by you, or by your company, after the Tin Plate Company was formed, with reference to the comparative cost of manufacture at different places?

A. Yes, sir. From the very start the cost of each plant was tabulated in parallel columns. We had the names of the different plants here, and we had the cost very carefully compiled, using, as nearly as we could, the same method of compilation, so that they would be comparative. In that way we were able to determine just which plants were the most economical to operate, by studying those cards, and we were enabled to determine just in what departments each plant was too high in its cost and to make what changes we wanted, or to determine what plants it would be necessary to move in order to get the best results.

Q. And that matter was taken up immediately upon the organization of the company, and continuously studied, was it not?

A. Yes. We commenced to study it just as soon as we could get the costs, and they commenced to come in very shortly, within three months, after the organization of the company.

Q. The company was organized in 1898?

A. Yes.

Q. And the first plants that were moved were moved about 1900, I think you said?

A. Yes; I think around 1900.

MR. CORNEAU: There was one, mentioned the other day, that was moved in 1899.

MR. SEVERANCE: Was there one?

THE WITNESS: What was that? Was that the Sommers?

MR. CORNEAU: I think so.

THE WITNESS: There are some cases where we did not buy the ground.

MR. SEVERANCE: And that did not operate.

MR. CORNEAU: There was one you said was moved at the time the National Steel Company——

MR. SEVERANCE: (Interposing). Just call attention to it if you find it. I want to develop the facts just as they are.

THE WITNESS: It might have been that Ohio River plant. Was that the one?

MR. CORNEAU: No; it was one in Pennsylvania, somewhere.

THE WITNESS: Well, that is in Pennsylvania. That was abandoned in 1900, according to the memorandum I have here.

MR. SEVERANCE: I do not understand that there were any moved before 1900.

MR. CORNEAU: I think it was the Aetna Standard.

THE WITNESS: The Aetna Standard, I told you, was one of the cases where we did not own the property. We did not own the real estate.

By MR. SEVERANCE:

Q. You just bought the machinery?

A. I told you the other day that in the case of the Aetna Standard, we bought the machinery, and that when the National Steel Company took over the Aetna Standard, we ceased that arrangement, and we took that machinery away.

MR. CORNEAU: I see.

THE WITNESS: That was in 1899. I guess it was pretty early in the game.

MR. CORNEAU: It was in 1899 that the National Steel Corporation was formed. That is how you fix the date.

By Mr. Severance:

Q. Did you make any investigation as to the compilation of the cost of operating large plants as against smaller plants?

A. Yes. In making tin plate there are a great many departments. I will give them in the order in which they come. There is the hot rolling, pickling, annealing, cold rolling, reannealing and tinning. Each one of these departments has to have a foreman or superintendent, and he has to be, in order to get good results, a skilled man, a man who thoroughly understands that particular branch of the business.

We soon had our attention called to the fact that a man with skill enough to look after that department in a two-mill plant had time and skill enough to look after it in a department in a much larger plant. The same thing applied to all the overhead expense. The office work, the superintendence and the departmental superintendence would cost very little more for a big plant than they would for a little plant. Consequently, the advantage of having a big plant was immediately apparent, as far as the costs went.

Q. Did these two matters which you have just mentioned, namely, the comparative cost of the different mills, and the slight difference in the overhead charges of large mills, as compared with small mills, have anything to do with the consolidation of the mills that was actually carried out?

A. Yes, sir; that, and the natural location of the plants in regard to freights.

Q. And in the one case you spoke of, the failure of the gas supply out in Indiana?

A. Yes.

Q. You were interrogated the other day with reference to an association and a contract, which you had forgotten, but which was shown to you, and which you signed, by which it was agreed that uniform prices should be maintained up to December, 1896, or, in certain contingencies, to a later date. Have you any more recollection about that now than you had day before yesterday?

A. No; I have not. I merely know that I recognize my signature there, and I know that I signed it.

Q. After the organization of the American Tin Plate Com-

pany, did you have anything to do with the selling of goods or the fixing of prices, or anything of that kind, up to the time when you became president of the American Sheet & Tin Plate Company?

A. No.

Q. And what year was that?

A. January 1, 1905, I guess. I was in it three years—to December, 1908.

Q. That would be January 1, 1906, then?

A. January 1, 1906, yes.

Q. You went out in December, 1908?

A. Yes, that is right, January 1, 1906.

Q. So that, from December, 1898, when the American Tin Plate Company was organized, up to the 1st of January, 1906, a period of about seven years, your attention was directed in other directions?

A. Yes.

Q. What did you say were the positions that you held?

A. I was chief engineer for the larger portion of that time. After that I was chief engineer and assistant to the president; and, after that, first vice-president. As chief engineer and assistant to the president, my duties were enlarged to take in operating, looking after the operation of the mills; and as first vice-president, I had charge of the actual manufacturing.

Q. But your business, then, was outside of the commercial department o fthe business, entirely?

A. Yes.

Q. It had all to do with the manufacturing or construction end?

A. Yes.

Q. And with that you were familiar?

A. Yes.

Q. And it is because of your recollection in that regard, from your experience, refreshed by the information that you have received that you have been able to testify with reference to those physical parts of the business?

A. Yes, sir.

Q. You were asked by counsel, also, about attending the Gary dinners?

A. Yes.

Q. I believe you merely stated that you did attend only one or two of them?

A. No; I attended all the Gary dinners, from the time they were organized until I resigned as president of the company, which was December 31, 1908.

Q. I do not know how many there were, but you attended whatever there were during that time?

A. Yes; I attended all the Gary dinners from the time they were organized until I resigned as president of the company, which was December 31, 1908.

Q. I do not know how many there were, but you attended all there were during that time?

A. Yes, sir.

Q. And you also stated—

MR. DICKINSON: Did he say that he did not attend any after that?

THE WITNESS: No. I quit. I had no more to do with it.

By MR. SEVERANCE:

Q. You stated, in answer to counsel, that you were a member of the committee appointed on sheet and tin plate subsequent to the Gary dinners?

A. Yes, sir.

Q. And you also stated that that committee never had any meeting?

A. I do not recall that it ever had any.

Q. That is still your impression, is it?

A. Yes, sir.

Q. That that committee never met?

A. Yes, sir.

Q. In what way, if at all, were the public advised of the prices charged by the American Sheet & Tin Plate Company during your incumbency of the office of president?

A. The trade journals all had our prices, and published our prices.

Q. Was that right along?

A. Right along, yes sir.

Q. Daily or weekly?

A. They generally came out weekly. I refer to the Iron & Trade Review, the Iron Age, and papers like that.

Q. Those prices were well known, then, to the public generally, through the medium of these journals?

A. Yes, sir.

Q. Were the prices of your competitors in the business known in that way?

A. Generally they referred to the price in this way: They would say: "The leading interest is quoting"—that is about all they would say about it.

Q. Did you ascertain whether or not, during your incumbency of the presidency, right down to the time you quit, in 1908, the competitors of the American Sheet & Tin Plate Company were selling their goods at the same price that you did?

A. They did sell at the same price; so they told me.

Q. Did you find that what they told you was not so, in some cases?

A. Frequently, yes.

Q. Did you have any agreement with your competitors during that period that they would maintain and sell at the same prices you did?

A. No, sir.

MR. CORNEAU: You mean by that a written agreement or a verbal agreement?

By MR. SEVERANCE:

Q. I will ask whether there was either a written or a verbal agreement to that effect.

A. No, sir; we had no written or verbal agreement. I am referring to the time I was President of the American Sheet & Tin Plate Company.

MR. DICKINSON: The question was whether "you" had any agreement.

MR. SEVERANCE: Excuse me, Judge. I will put it this way.

By MR. SEVERANCE:

Q. By "you" I mean did the American Sheet & Tin Plate Company have any agreement. That is what I intended to

cover by my question. Did the American Sheet & Tin Plate Company have any agreement with its competitors, either written or verbal?

A. No.

Q. As to the prices to be charged for its output during the time you were president of the company?

A. No.

Q. Did your competitors, at times, reduce the current market price for those goods, while you were president of the company?

A. Yes; they would sometimes cut the prices.

Q. What was your practice, as the managing officer of the Sheet & Tin Plate Company, in meeting such reduction in price as might be made by your competitors?

A. Well, a cut on a small tonnage we would ignore, and go ahead and quote the same price. We did not meet it. We would lose the business. We tried to tell our customers that our plates were better.

Q. Suppose you found a large amount of tonnage was going out at a price below yours. What did you do?

A. If it was large enough to influence our tonnage to an extent that we felt we were being hurt in our position, we would reduce our price.

Q. You stated, in answer to counsel the other day, that you met some of these gentlemen who were appointed on the committee with you, I think you said at the Duquesne Club?

A. Yes, sir.

Q. And sometimes in New York, at the Engineers' Club, or somewhere? It is the Engineers' Club where you go in New York?

A. I go to the Engineers' Club, but I never met them at the Engineers' Club.

MR. CORNEAU: I think in his testimony he mentioned that he had met them at the Duquesne Club.

By MR. SEVERANCE:

Q. Here it is, in your testimony of day before yesterday:

"Q. Did you ever meet around any of the New York Hotels?

"A. No; no; I always went to the club here."

A. I meant that is where I lived here.

Q. Whenever you met any of these gentlemen, it was at the Duquesne Club, in Pittsburg?

A. I may have met them on the street; but that Duquesne Club is a place where nearly all the manufacturers meet about noon time.

Q. And you also told, somewhat in detail, about the way you discussed prices with Mr. Scott. Did you tell each other what your price was?

A. Yes.

Q. Did you ever make any agreement or have any understanding with Mr. Scott that you would maintain that price, that you stated was your price at the time you talked with him?

A. No, sir.

Q. Or did Mr. Scott have any agreement or understanding with you that he would maintain his price?

A. No, sir.

Q. It was merely an informal discussion of the existing trade situation, was it?

A. Yes, sir.

MR. SEVERANCE: That is all.

REDIRECT EXAMINATION,

By MR. CORNEAU:

Q. As I understood you, Mr. Bray, there was some machinery in the Aetna Iron & Steel Company's plant that you acquired?

A. Yes.

Q. What was done with that machinery?

A. That was either scrapped or moved to other plants.

Q. Can you recall which?

A. I will tell you how we did that, and you will see that it is pretty hard to answer. When we had machinery of this kind we would generally put it in storage; that was small machinery, that Aetna Standard machinery; it was tinning machinery. It was rather small.

Q. What do you mean by "tinning machinery"?

A. Machinery for putting a coating on the plates.

MR. SEVERANCE: Was that the dipping machinery?

THE WITNESS: Dipping machinery,—pots that held the tin, and the rolls through which the tin comes when it is tinned.

MR. SEVERANCE: Do you mind asking him what sort of a plant it was?

By MR. CORNEAU:

Q. You stated the other day, Mr. Bray, as I understood, that the Aetna Standard tinning machinery was part of the general plant, which included a rolling mill for the making of sheets generally, including sheets for tin plates?

A. Yes; and they were not prepared to sell all that; so the company merely bought the material that went into the tin plate manufacture.

Q. Did that include the machinery for rolling the black plates?

A. No; we did not purchase that, because they used the machinery for rolling black plates for tin also to roll sheets, and, at that time, we did not have any sheet mills.

Q. I see.

A. The sheet mill company had not been formed up to that time. They were just organizing a tin plate company. The sheet mills were not in that combination at all.

Q. Then you took this dipping machinery out of the plant, as I understand?

A. Yes.

Q. And do you or not think that you put it in storage? That was the question we were on a few moments ago.

A. I think we put it in storage and drew from it for spares, as we required it. Those parts of machinery were wearing out, and we have to buy spare parts; and frequently, when a plant was taken down, the parts, instead of being put into an actual mill, were put into storage and held until there was a requisition coming into the engineering department for a spare.

MR. SEVERANCE: That is, in some cases?

THE WITNESS: In some cases. In this particular case I think that was so.

By MR. CORNEAU:

Q. I do not see that Mr. Severance asked you with reference to the Baltimore Tin Plate Company?

A. No; I do not think he did.

Q. What was done with the machinery from that plant?

A. I do not find a record of it here, either, but I know the machinery was very antiquated when we took it apart, and I think it was melted up for scrap.

Q. It was simply scrapped?

A. Yes; I think so. Yes, I find it here, too. It had two mills, if you want to complete your record.

Q. And when was that? I am not sure that we got the date the other day.

A. I have not got it here. It was probably in 1900. I testified to that the other day.

Q. Did you? I did not recall whether or not you did.

A. I am not sure.

Q. Oh, yes. I see it here. (Reading):

"Q. Can you recall the time when that was?

"A. I think it was pretty early in the game; probably the year after."

A. Yes; that was it.

Q. So far as I can see, Mr. Severance did not ask you about the Blairsville Rolling Mill & Tin Plate Mill.

A. Well, that was a two-mill plant, and that also was dismantled and the machinery there was practically melted up; it was very light.

Q. What was the condition of it?

A. It was very light; too light. The machinery was not strong enough. There were a good many breaks taking place there.

Q. Was it old or was it new machinery?

A. It was old.

Q. Two mills, did you say?

A. Two mills; yes, sir.

Q. Britton Rolling Mill Company?

A. That was three mills. That was also scrapped on account of being out of date.

Q. You stated to Mr. Severance that the Canonsburg Iron & Steel Company was sold as a going concern to the Canonsburg Steel & Iron Works.

A. In 1902.

Q. In 1902. What was the nature of the business carried on by the Canonsburg Steel & Iron Works?

A. They had a sheet mill.

Q. A sheet mill?

A. Yes, sir; still have it.

Q. Not the tin plate mill?

A. No, sir.

Q. I do not see that Mr. Severance asked you about the Cincinnati Rolling Mill & Tin Plate Company.

A. That was a four-mill plant, and that was dismantled and part of the machinery was used and part of it was scrapped.

Q. What of the machinery was used?

A. The housings and rolling mill machinery proper we used, I think at Monessen, but the engines, boilers and buildings were not used for that purpose.

MR. SEVERANCE: Will you ask him when it was?

THE WITNESS: That is the Cincinnati Rolling Mill.

MR. SEVERANCE: I say when. Do you know when that was moved?

THE WITNESS: Did you ask me a question?

MR. SEVERANCE: I just asked you if you knew when that was moved. I know he stated the other day.

THE WITNESS: I probably stated about two years after the formation of the Tin Plate Company. It is not on my memorandum here.

By MR. CORNEAU:

Q. You said it was moved to Monessen. Do you mean it was immediately installed in the Monessen plant?

A. No; it was put in as part of the enlargements.

Q. What would you say was the value of that machinery that was so moved, Mr. Bray?

A. Do you mean that was scrapped?

Q. Of each. I was asking first with reference to that which was moved, and next with reference to that which was scrapped.

A. I should think the machinery that was moved would probably be worth $20,000.

Q. So that is all you got out of that machinery at that plant?

A. No.

Q. For operating purposes?

A. For operating purposes, yes, sir.

Q. That is what I mean.

MR. SEVERANCE: He says he had some real estate.

MR. DICKINSON: The machinery he is talking about.

MR. SEVERANCE: You said out of that plant.

MR. DICKINSON: Not the plant, the machinery.

MR. SEVERANCE: Mr. Corneau's question is too broad. He said "all you got out of that plant."

MR. CORNEAU: The machinery in those mills.

By MR. CORNEAU:

Q. The Great Western Tin Plate Company I do not think Mr. Severance asked you about.

MR. SEVERANCE: Well, you asked him about that.

A. That is a four-mill plant, and that was dismantled, and the larger portion of the machinery was out of date and was scrapped.

By MR. CORNEAU:

Q. You got nothing out of that for operating purposes, then?

A. You mean to use over again?

Q. Yes; machinery that you could use over again.

A. I do not think we did.

Q. Marshall Brothers & Company, Philadelphia?

A. That was a six-mill plant. That was dismantled in

1900. Some of that machinery was used and some of it was sold and some of it was scrapped.

Q. Which was used?

A. The rolling mill machinery was used.

Q. Where was that used?

A. Well, it was used——I cannot tell you exactly where; it was used as spares.

Q. It was used as spares?

A. Spares, yes.

Q. That is, it was not put to immediate use?

A. No, sir, but put in storage.

Q. Put in storage as use might arise in the future for further machinery and other machinery of that kind?

A. Yes, sir.

Q. Do you know whether any of this was ever used?

A. I know a lot of it was used, yes.

Q. And do you recall where?

A. No, sir; I could not tell where. I will tell you a roll is a pretty standard kind of a thing, and a housing is a pretty standard kind of a thing, and it breaks frequently in rolling mill work, and the manufacturing department had these things stored, and it was placed on requisition instead of going out and buying a new piece when they had an accident. I do not know of any record being kept of it.

Q. That was simply put out of business and put in stock for such use as might arise?

A. It was carried under the name of spares.

Q. That you said was the machinery that was used?

A. Yes, sir.

Q. Some was scrapped?

A. I think we sold all the engines.

Q. You sold all the engines?

A. Yes, sir.

Q. And the rest of it was scrapped?

A. I think we scrapped the other stock.

Q. What did you get for the engines, as nearly as you can recall, and the machinery that you sold?

A. I cannot tell that.

Q. Can you approximate it?

A. I can make a guess on it.

MR. SEVERANCE: I object to that.

A. (Continuing.) I know about what machinery is worth. I would be guessing at it.

By MR. CORNEAU:

Q. You know what the machinery was and about what it was worth at that time, do you not?

A. Yes.

MR. SEVERANCE: I object to that, as the witness has stated he could do nothing more than give a guess on the subject, as immaterial and irrelevant.

Q. State whether or not the machinery was old machinery or new machinery.

A. Old machinery; very old.

Q. You have already stated that you were familiar with machinery values at that time?

A. Yes, sir.

Q. And you knew at the time what it sold for?

A. Oh, yes; I sold it.

Q. Having those three things in mind, will you give us your best recollection as to what it sold for?

MR. SEVERANCE: Same objection.

A. Can I give an explanation of that?

By MR. CORNEAU:

Q. Yes.

A. Marshall Brothers originally had a sheet mill years ago; I do not know how far back; it was a very old thing. Now, the same engine that will drive a sheet mill will drive any other kind of a mill.

Q. Yes.

A. And the same boilers that will drive a sheet mill will drive any other kind of a mill. When they went into the tin plate business they got new mill machinery, which we used, but they used these old antiquated engines and boilers, which

we would not move, because we did not consider them safe. Now, I think that the engines and boilers were sold to a machinery dealer for about eight or ten thousand dollars. He went there on the ground and took them away and sold them to different people.

Q. What was the value of the machinery that was put in stock?

A. I can only answer that in a general way, in the same way I did before. I would say fifty or sixty thousand dollars.

MR. SEVERANCE: Do you mind if I ask a question, Mr. Corneau?

MR. CORNEAU: Let us hear what it is, and I will tell you.

MR. SEVERANCE: I just want to ask him if he knew anything about what became of the real estate?

MR. CORNEAU: You may ask that question, or I will ask it.

THE WITNESS: The last time I heard of the real estate there was a party offered us $150,000 for it, and it was referred to the Corporation, and they referred it to some real estate dealer in Philadelphia, and we were advised to hold it. It was a very valuable piece of real estate.

By MR. CORNEAU:

Q. When was that, Mr. Bray?

A. That was just about between 1907 and 1908. This real estate is located on the river, and, I believe, is the only big pier in that particular vicinity that extends out into the Delaware River, and the Corporation thinks it is going to be very valuable.

Q. That real estate has been idle since you dismantled this plant, I take it?

A. Yes. I said idle. I think they have rented it for storage purposes to somebody. I think that was the case.

Q. The Neshannock Tin Plate Company?

A. That was dismantled. I will see if I have the date.

MR. SEVERANCE: Did you go over that on your direct examination?

MR. DICKINSON: We are going over it for another purpose now, to see what was done with the stock and the value of it.

MR. CORNEAU: You went over some of them very thoroughly.

THE WITNESS: Dismantled in 1900, six mills.

By MR. CORNEAU:

Q. And what was done with the equipment?

A. I can only answer the same as I did before, that a portion of the equipment was scrapped and a portion of it was put in as spares and used wherever required.

Q. Which portion was put in as spares?

A. The mill machinery.

Q. And by mill machinery what do you mean? I am not familiar with that.

A. I mean rolling mill machinery, rolls, cold rolls, the bed plates for the mills, and all the parts—I refer not to the motor part; I refer to the mill, the part that does the actual manufacturing of the plate as compared with the engines and boilers which——

Q. Furnish the power?

A. Yes.

Q. What was the value of that portion of the machinery which was put into your stock as spares?

A. Well, that was worth $60,000.

Q. How old was that machinery, Mr. Bray?

A. I do not know; it was an old mill when they went into the tin plate business; they had a sheet mill there before.

Q. And that was a six-mill plant?

A. Six-mill, yes.

Q. What would be the value of like machinery for a six-mill plant new at that time?

A. I said about $10,000 a mill.

Q. I am speaking about new——

A. Well, you mean——

Q. Did you have in mind the value of new machinery when you made that answer?

A. Yes, sir.

Q. I see.

A. I am trying to give you the value of machinery to take the place of machinery, to go out and buy it.

Q. And not the value of this old machinery itself necessarily?

A. Well, anything that was so old that we did not consider it good, we scrapped. That is, in enlarging and increasing our mills, we always followed the policy of only using material that was of such kind that it was practically as good as new.

Q. It was worth the same in the market as new machinery, I take it?

A. Not if you went to sell it, because there were not any buyers to speak of.

Q. And it all had been used to some extent?

A. Yes.

Q. And in this case to a very considerable extent, according to your recollection?

A. Yes.

Q. And as a result of that use it had a shorter life than new machinery would have had?

A. Yes. It is a very hard question to answer fairly. What we used as spares were the parts that were standard, such as housings, rolls, spindles, coupling boxes, bed plates, and things of that kind, details. And as a whole, a mill might be antiquated, but when you take the separate parts of it and throw out the parts that are not up to date, you might not have to throw away so very many parts.

MR. SEVERANCE: Are you about through, Mr. Corneau, or are you going to be some time?

MR. CORNEAU: No. I think we will be some time.

MR. SEVERANCE: We had better stop then.

(Whereupon, at 12:30 o'clock p. m., a recess was taken until 2 p. m.)

AFTER RECESS.

The hearing was resumed at the expiration of the recess, at 2 o'clock p. m.

C. W. BRAY,

the witness under examination at the taking of the recess, resumed the stand and testified further as follows:

REDIRECT EXAMINATION (Continued),

By MR. CORNEAU:

Q. Mr. Bray, when we adjourned, we were talking about the Neshannock Company?

A. Yes, sir.

Q. State whether or not you would have expected to pay the price you mentioned for second hand machinery of that kind if you had been buying second hand machinery?

MR. SEVERANCE: I object to that as irrelevant and immaterial. An expectation has nothing to do with this matter.

MR. CORNEAU: I will withdraw it.

By MR. CORNEAU:

Q. What in your opinion was the market value of that machinery as it stood?

A. To sell?

Q. To sell as machinery in the market.

MR. SEVERANCE: Which plant is he talking about?

THE WITNESS: The Neshannock.

MR. CORNEAU: I am talking about the Neshannock.

By MR. CORNEAU:

Q. Not the replacement value, but the market value of that machinery, it having been used, and so on?

A. Well, unfortunately at that time there were no buyers.

Q. Why?

A. There were no mills; no one was in the market for machinery. Consequently there was no market value. You can not sell machinery like you would sell sugar or any staple thing. If any one wants a piece of machinery, he will buy it and pay for it, but you cannot, by fixing a price, make a buyer for a piece of machinery. It is made to order generally. Do you understand?

Q. I understand your point.

A. It is just like a suit of clothes. A man buys a suit of clothes and pays $75 for it, but the market value, if he wanted to sell it, might be $20, because it was made for that man.

Q. Just explain a little further what you meant by saying there were no buyers.

A. Well, I do not recall of any mills being built about that time.

Q. I see. Do you recall any mills that were being operated about that time that used that sort of machinery?

A. Yes; there were mills being operated.

Q. How many?

A. You mean outside our own company?

Q. Yes; outside of the American, of course.

A. I cannot tell you. I cannot answer that question.

Q. There were very few, were there not?

A. There were not very many.

Q. I am not sure just what figure you put on the Marshall Brothers Company rolling mill machinery that you used as spares. Did you arrive at the figure you put on the Marshall Brothers in the same way, as based on replacement value?

A. Yes.

Q. And that, I take it, was likewise machinery that had been used?

A. Yes.

Q. And used for about how long, do you know?

A. As I explained in my testimony, the Marshall Brothers plant was a very old plant, and they remodeled it when they came to make tin plate. The machinery for tin plate was comparatively new. But in order to try to answer your questions I in my mind arrived at an approximate figure of

$10,000, which I thought would roughly cover them. That covered them all, good and bad. Some would be a little less and some a little more. That was what I was trying to get.

Q. That is the replacement value?

A. Yes. The value to our company to use.

Q. I understood you to say before luncheon that that would be the cost of new machinery?

A. Yes; that is the value for them to use, too. If they took the place of new machinery they ought to be worth what they took the place of. That is what I am getting at.

Q. Your idea is that secondhand goods are worth as much as new goods?

A. If it is the same design, off the same pattern. A rough casting like a rolling mill housing does not become injured by use until it is broken, and then it is put out of business altogether. It is an immense big housing, a casting, the main casting of a rolling mill. The section of it would be 14 by 22, solid cast iron. Now, you see you cannot hurt that very well until you smash it or lay it under an undue strain. Some roller might put the iron in there too hot and the housing would break. Then it would not be worth anything but as scrap. But if you can get anyone who wants it, it would probably have to him the same value as new, although he probably would not pay that much, because he would be looking for a bargain.

Q. But I take it, Mr. Bray, that the condition that the machinery gets into that brings about the breakage results very largely from usage, does it not? That is, you suggested a few moments ago that if it had had hard usage or improper asage—you mentioned two or three things—ultimately that is apt to result in breakage, is it not?

A. Yes; that would naturally occur to one. But sometimes in a new mill that has just been built and started, it will break a roll the first day; the very first piece that goes through breaks a roll; and other mills will run for years without having a serious breakage.

Q. So that the depreciation in value due to usage is rather problematical?

A. Yes, sir.

Q. And, naturally, in marketing that sort of stuff the problematical nature of the amount of depreciation would be taken into consideration, would it not?

A. Well, if I were going to buy second-hand rolling mill machinery I would want to have a competent engineer, who was capable and familiar with that kind of machinery, to inspect it and look for cracks and flaws. If there were any cracks or flaws in that machinery I would not have it at any price, except scrap. And we would not use in any of our plants a defective casting if we knew it.

Q. And even if there were no obvious defects you would——

A. If there was a defect that we know of we would prefer to buy a new casting.

Q. And even though there were not such defects as you describe, that could be discovered by ordinary inspection, you would take into consideration the fact that it had been used and that it might have been misused, allowing for the depreciation, would you not?

A. If I was the buyer, I would. Of course, if I owned it and was going to use it myself and was keeping books, I would figure it worth exactly what a new one would cost.

Q. Those considerations would have affected the market value?

A. The market value, yes, sir.

Q. In case an effort was made to sell?

A. Yes.

Q. Let us take the Washington Sheet & Tin Plate Company. I think that is one Mr. Severance did not mention this morning. What was done with respect to the machinery of that plant?

A. I have not my memorandum with me now. I thought you were through with all those things. I gave it to the young man who is making up the list for me that you asked me to make up.

Q. That memorandum is coming down?

A. Yes, sir; it is coming down later, and I will tell you; I do not want to answer from memory. I think I did answer once from memory.

Q. About Washington?

A. Yes.
Q. You mean on Monday?
A. Yes.

By Mr. Severance:

Q. Was that the one that was sold to the Hazel Glass Company?

A. Yes; the buildings and the land were sold to the Hazel Glass Company, but the machinery was either used as spares or used at some plant.

By Mr. Corneau:

Q. Can you tell which when you get the memorandum?

A. I think I can, yes.

Q. Perhaps we had better pass it for the present, then.

A. As I say, that report I got from Pittsburg is not complete on those points entirely, but I may be able to tell you and I may not.

Q. I understand.

A. I have the memorandum now. It was used as spares.

Q. The Washington Sheet & Tin Plate Company?

A. Yes.

Q. How many mills were they?

A. Four mills.

By Mr. Severance:

Q. Did you give Mr. Corneau one of these statements?

A. I think that is the simplest way, just to hand it to him and let him have it. (The memorandum was handed to Mr. Corneau.) Now, that is as near as I could figure it out from the information I had.

Mr. Severance: As long as he got this up at your request, would it not be a good idea to put it in?

Mr. Dickinson: If he compiled it from the record, it would be a good idea. But it was compiled by the Steel Corporation.

The Witness: Was not that what you asked me for?

MR. DICKINSON: I asked you for your own memory on the matter.

THE WITNESS: You asked me when I went away to lunch to make up a list as near as I could.

MR. DICKINSON: Make a statement.

THE WITNESS: Yes.

MR. DICKINSON: I did not ask you to have somebody else do it.

THE WITNESS: I was giving testimony from my own memory and refreshing my memory with some information I got from Pittsburg. In the same way I made up this list.

By MR. CORNEAU:

Q. How about Sommers Brothers?

A. That is right. That is not there.

Q. How many mills did they have? You stated the other day I think, but I have forgotten.

A. Four mills, I said.

Q. What was done with them?

A. They were on the scrapping list. I think that is the only one you will find was omitted.

Q. The Stickney Company of Baltimore?

A. There is another. Well, that was also scrapped.

Q. How many mills was that?

A. I think that was a two-mill plant.

Q. When you say that the Washington Sheet & Tin Plate Mills were used as spares, do you refer to all the machinery, or simply part of the machinery?

A. No; I refer to the mill machinery.

Q. The mill machinery?

A. The rolling mill machinery.

Q. And your answer with respect to the value of the machinery would be like your answer with respect to these others?

A. Yes, sir; about $10,000 a mill.

Q. As the cost of reproduction?

A. Yes.

Q. And the market value of the machinery as second-hand machinery?

A. Whatever you could get. The reason those were

omitted, I will explain, is because they were not on this list I had from Pittsburg.

By Mr. Severance:

Q. You made this up at noon, did you not?

A. I made it up at noon, yes, sir.

By Mr. Corneau:

Q. You stated to Mr. Severance this morning that the Montpelier, Indiana, mill was moved to the American works at Ellwood?

A. Yes, sir.

Q. Do you mean that that mill was moved in its entirety?

A. No; I did not mean that. There are certain things about a rolling mill, and that probably will explain how difficult it is for me to answer your question, that you absolutely cannot move. You cannot move foundations; they are bricks; they cost a good deal of money. They are down in the ground. You cannot move the hole that you have dug, but you do have to do a lot of digging.

Q. Naturally.

A. Furnaces are practically worthless to move, because the bricks are burned, and the expense of taking the bricks down and cleaning them is so great, and firebrick are of such a nature that they break very easily, and it has been proved that it is not a good policy to try to use them over again. And the same way frequently with certain buildings that are around a plant; they may be built of brick. A building like a finishing house or tinning house for coating plates, those buildings are largely built of brick and you cannot take a brick house down and move it very well; you lose money by it; it is cheaper to build a new one.

Q. What part did you move?

A. We moved in this case the machinery and engines. I do not believe we moved the boilers.

Q. Did you move all the machinery, do you think?

A. Yes. I might modify that by saying if there was any machinery there that was defective it would be replaced. But that was the intent, to move it practically all.

Q. I see. The Elwood plant, how about that?

MR. SEVERANCE: You mean Elwood, Pennsylvania?

THE WITNESS: Elwood, Pennsylvania.

MR. CORNEAU: Elwood, Indiana, as I understand.

THE WITNESS: That was moved; that was enlarged.

MR. SEVERANCE: That is the one you moved these others to?

MR. REED.—There are two Elwood plants.

MR. CORNEAU: There was the American plant, which I understand was at Elwood, Indiana?

THE WITNESS: Yes, sir; that was Elwood, Indiana.

By MR. CORNEAU:

Q. There was another plant at Elwood, Indiana, I understand?

A. No; that was Elwood, Pennsylvania.

Q. Then I am mistaken.

A. That was a six-mill plant.

Q. Perhaps we can get it quicker this way: What other plants were moved to Elwood, Indiana?

A. Moved to Elwood, Indiana?

Q. Yes.

A. The Irondale plant; part of that.

Q. Yes.

A. I think some of the Atlanta machinery was moved there, but it was used as spares as I recall it. You mean moved and put into operation at once?

Q. I was coming to that later, yes. How about the Anderson works?

A. I think some of that lot was moved over there.

Q. What was the number of mills being operated at the Elwood plant at the time of the formation of the Tin Plate Company?

MR. SEVERANCE: You mean the Elwood Indiana plant? The American Works?

MR. CORNEAU: The American Works, Elwood, Indiana, yes. yes.

THE WITNESS: I think it was about a twenty-mill plant.

By MR. CORNEAU:

Q. And it was increased, altogether, how much?

A. I think it was a 29-mill plant finally. It was even more than that, later. I think it was over thirty, because we talked about its being the largest plant, at one time. I am not sure about that, however.

MR. CORNEAU: Have you the data as to that, exactly, Mr. Severance?

MR. SEVERANCE: No; I have not.

By MR. CORNEAU:

Q. Have you anything there from which you can ascertain exactly, Mr. Bray?

A. If you can let me see that original statement, I can get it there, I think.

MR. REED: Was it not a twenty-mill plant?

THE WITNESS: No; it was more than that.

MR. CORNEAU: He said it was originally twenty.

THE WITNESS: How many have we on that list?

MR. SEVERANCE: We have no information here.

THE WITNESS: That is right. That merely gives information as to plants that were changed,—moved.

MR. SEVERANCE: This statement was gotten up to cover the cases where they moved away.

THE WITNESS: I think there were twenty mills there; and I think it ran up pretty close to thirty later on.

By MR. CORNEAU:

Q. These three mills, the one at Montpelier, and at Atlanta, and the one at Irondale were each of them six-mill plants, as I understood you this morning?

A. Yes.

Q. So that there were eighteen mills dismantled at those places?

A. Yes, sir.

Q. And the increase at Ellwood was eight or nine?

A. Something like that. I told you part of them were used as spares.

Q. The remainder of those mills were used as spares?

A. Yes, sir.

Q. The Ellwood City Plant I have not noted here. What was done with that?

A. I will see. (After consulting paper.) I have it marked "used as spares."

Q. The Atlanta Steel & Tin Plate Company?

A. Yes. I have that marked "used as spares." You have it right there, in that list.

MR. SEVERANCE: Why not put in the list?

THE WITNESS: The list gives you all this information.

MR. CORNEAU: That will just duplicate a lot that we have already been over.

MR. SEVERANCE: I am going to put it in, if you do not, so as to have it all in one place.

MR. CORNEAU: Very well.

MR. SEVERANCE: So that if you go on asking him separately it will duplicate still more.

By MR. CORNEAU:

Q. Do you recall just when the Champion Iron & Steel Company's plant was dismantled?

A. I gave it to you this morning.

Q. Did you? I did not get it noted. That is why I asked the question.

A. You have that over there, Mr. Severance. I had it on the memorandum.

Q. If you are sure you gave it this morning, we will pass it.

MR. SEVERANCE: I am not sure whether he gave it or not.

THE WITNESS: If it is there, I gave it.

MR. CORNEAU: He gave it the other day at any rate, I think.

By MR. CORNEAU:

Q. What was done with the machinery that was moved?

MR. SEVERANCE: Do you want a copy of that memorandum? Do you mind if I give it back to him, Mr. Corneau?

MR. CORNEAU: I do not care for it. I am pretty nearly through with this, now.

THE WITNESS: That was moved to going plants. That is the way I have it here.

By MR. CORNEAU:

Q. Yes; but what was done with the machinery when it got there?

A. It went to several plants, as I recall it. I had a memorandum with me, and I testified on that, before.

MR. SEVERANCE: You stated this morning that it went to Guernsey, Chester, Mercer and Sharon.

By MR. CORNEAU:

Q. The machinery was moved to those plants; but what was done with it after it got to those plants? That is what I want to know?

A. It was put in use. Those plants were enlarged.

Q. I see. That is what I was getting at.

Now, as to the Cumberland concern. You said that was sold to Mr. Dickey?

A. Yes, sir.

Q. What was Mr. Dickey's business at that time?

A. He was previously in the tin plate business; and at that time I think he was a jobber in Philadelphia. I am not sure.

Q. I did not understand whether or not the machinery was sold with that plant?

A. I think not; no; it was not sold.

Q. What had been done with the machinery?

A. I think I testified to that. I have it marked here as moved to going plants; to some going plant.

MR. SEVERANCE: You testified that it went to Monessen.

THE WITNESS: Yes. I had the memorandum before me then.

By MR. CORNEAU:

Q. I understand; but you went pretty fast, and I could

not make very full notes myself this morning. Do you know when it got there whether it was used immediately or put in as spares?

A. Yes; it was put in to work; because Monessen was enlarged at that time.

Q. What was the fact with reference to the Reeves concern at Canal Dover, after the machinery was moved from there?

A. You mean, about the——

Q. (Interrupting.) What was done with the machinery after it was moved?

A. I have it down here as moved to a going plant. I cannot tell you which plant.

MR. SEVERANCE: He testified about that this morning. He said it was moved to Monessen.

MR. CORNEAU: I am not asking where it was moved to, but what was done with it after it was moved.

THE WITNESS: If it went to Monessen it was put into use.

By MR. CORNEAU:

Q. It went into immediate use?

A. Yes. Monessen was enlarged from an eight-mill plant to a twenty-three-mill plant; and those plants that went to Monessen were used; the equipment was used.

MR. CORNEAU: That is all.

RECROSS EXAMINATION.

MR. SEVERANCE: Just for the sake of having this information all together, I will ask the stenographer to identify this paper.

MR. CORNEAU: That is objected to.

(The paper referred to was thereupon marked "Defendants' Exhibit No. 15, for identification.")

By Mr. Severance:

Q. I show you exhibit marked No. 15 for identification, and I will ask you whether that table that appears on that states the facts with reference to the various plants that were dismantled, concerning which you have been interrogated separately, with the exception of Sommers Brothers, and the Stickney plant?

A. Yes, sir.

Q. That shows twelve mills sold complete; sixty moved to going plants; 16 used as spares, and 27 scrapped?

A. Yes.

Mr. Corneau: I object to what that table shows.

By Mr. Severance:

Q. Is that right?

A. Yes; that is right.

Q. Sommers Brothers was a four-mill plant?

A. Yes.

Q. And the Stickney was a two-mill plant?

A. Yes.

Q. So that would make the total number of mills scrapped thirty-three, if you add those in?

Mr. Corneau: I object to that statement again. The statement itself will show, on its face, if competent.

The Witness: That is true.

By Mr. Severance:

Q. According to your best information the figures that I have mentioned are a correct statement, are they not, of the disposition of the mills contained in these plants that were dismantled?

A. Yes, sir.

Q. That exhibit No. 15 for identification was prepared by you, was it not, at the request of counsel for the petitioner here?

Mr. Corneau: I object to that question as leading, and be-

cause counsel is endeavoring to qualify a document which he wishes to offer in evidence himself.

By Mr. Severance:

Q. To be more definite, it was prepared at the request of Judge Dickinson, given to you this noon in the court room, was it not?

A. Yes.

Mr. Dickinson: I want to enter an objection to that, on the ground that that statement was made up in the office of the United States Steel Corporation, and partly from data which previously had been made up by an employe of that corporation. I object to its introduction as evidence.

By Mr. Severance:

Q. The document was made up from the sources of information you have stated here on the stand, was it not?

A Yes.

Q. Your own recollection, aided and refreshed by that of a former subordinate of yours who is in the employ of the American Sheet and Tin Plate Company?

A. Yes.

Q. You are satisfied of the correctness of the data therein contained, are you not?

A. Yes, sir.

Mr. Severance: I will offer that in evidence as an exhibit, as part of the cross examination.

(The paper so identified was marked "Defendants' Exhibit No. 15, June 12, 1912," and will be found in the volume of exhibits.)

Mr. Corneau: That is objected to on the ground already stated by Judge Dickinson, and also on the further ground that the subject matter has been fully covered by the oral testimony of the witness.

Mr. Severance: It is a mere duplication, then; cumulative.

I am putting it in more for convenience in looking over the record than for any other reason. He has testified to all of it in detail.

That is all.

FRANK TENNEY,

called as a witness in behalf of the United States, having been first duly sworn, testified as follows:

DIRECT EXAMINATION.

By Mr. Dickinson:

Q. Where do you live, Mr. Tenney?

A. Haverford, Pennsylvania.

Q. With what company are you connected there?

A. With the Pennsylvania Steel Company.

Q. How long have you been connected with that company?

A. Since 1883.

Q. In what capacity are you connected with it now?

A. I am secretary and assistant to the president.

Q. How long have you occupied that position?

A. Since 1901.

Q. Have you at any time, and if so, at what period, had charge of the details of the ore purchases of the company?

A. Over that period, yes. I think longer than that. I do not just recollect what the length of time is.

Q. State who were the principal vendors of ore from 1895 up to about the first of this year?

A. As I recollect them, there was Pickands, Mather & Company, of Cleveland, Ohio; Corrigan, McKinney & Company; M. A. Hanna & Company; Oglebay Norton & Company; the Tod-Stambaugh Company—I have a memorandum of those here.

Q. State whether or not the Cleveland-Cliffs Iron Company was one of them?

A. Yes; one of the principal ones.

Q. How about Harvey H. Brown?

A. He was a vendor of ore; but I think in the past eight or ten years probably he has not offered us any.

Q. The Shenango Furnace Company?

A. Yes; they have offered some ores.

Q. During that period?

A. During that period, yes.

Q. Do you know of a concern called the E. N. Breitung Company?

A. Yes; they are vendors of ore.

Q. Those that you have named were the principal vendors were they, during that time?

A. Yes.

Q. With which of those companies did your company, during that period, do business in the purchase of ores?

A. I think with all of them, with the exception, perhaps of E. N. Breitung. We never did much business with them.

Q. State whether or not, in the ore business, it is customary to make contracts for the purchase of ore during a portion of the year, or whether the sales ordinarily run through the entire year?

A. I think the major portion of it was bought at certain periods, but I do not think you could find any one period that the ore was purchased.

Q. But the main portion of the sales——

A. Differed in different years.

Q. Differed in different years?

A. Yes.

Q. And for the several years the major portion for that year was usually sold within a limited period, was it?

A. I do not know about how it was sold. We bought ours within a limited period.

Q. I am speaking of the knowledge you derived from your purchases.

A. Yes.

Q. That is a fact, is it?

A. Well, there are some exceptions to that. There were some years that we bought right along.

Q. The bulk of your purchases you bought right along, or occasionally?

A. Not the bulk of them, no, but occasionally.

Q. I am speaking now of the bulk of the purchases, whether they were confined within short periods for each year generally.

A. Yes.

Q. Take the year 1904. Do you remember about the time the purchases were made that year? If you have any memorandum, Mr. Tenney, that you made up, you may refer to it.

A. I have a memorandum made up.

Q. How was that memorandum made up? By you?

A. Yes.

MR. REED: You are speaking now of the purchases made by the Pennsylvania Steel Company, are you not?

MR. DICKINSON: Yes; I am speaking now of the Pennsylvania Steel Company.

THE WITNESS: Why, it was made up taking the dates of the contracts.

By MR. DICKINSON:

Q. Take the year 1904. During what period of that year or about what period of that year were the purchases made?

A. The ore that was delivered in 1904 we did not make any purchases until April of that year; then they were made from then on.

Q. When was the bulk of that made?

A. I should say between April 13th and the first of July, the bulk of them.

Q. Take 1905.

A. In 1905, January 19th, our first purchases were made, and they were made from then on.

Q. When were the bulk of the purchases that year made by you, if you know?

A. Within a month after the middle of January.

Q. For the year 1906?

A. The same. In 1906 they were purchased in the latter part of 1905. The first purchase was made on October 31st.

Q. And in the year 1906 itself?

A. November 29th, 1905, for 1906, to the latter part of December.

Q. For 1907 how was it?

A. 1907 they were made—the first purchase was made October 31st, 1906, and they went from then on to the middle of November.

Q. State, Mr. Tenney, whether or not in the iron business,

the manufacture of iron as it was conducted by those who were dependent upon the purchase of the ore, it was generally customary to group the purchases for particular years within short periods?

MR. REED: That is the same question, Judge Dickinson, as to which he answered he could not say.

MR. DICKINSON: I asked as to his purchases. Now I ask generally if that is true.

MR. REED: But he told you he did not know the general custom.

MR. DICKINSON: Perhaps I can get it in a different way.

A. I can only speak of what we did ourselves.

By MR. DICKINSON:

Q. Do you know of other people purchasing about the same time or not?

MR. LINDABURY: How could he know?

MR. DICKINSON: I do not know how he could. I am just asking if he does.

A. No; I could not state the fact; I can give you an opinion if you want it, but I could not state the fact.

By MR. DICKINSON:

Q. No; I do not want your opinion unless it is based on some knowledge by meeting people about that time and discussing with them about their purchases and whether they were making purchases at the same time you were. If you have any information of that character upon which you can base your answer, I would like to have it.

MR. LINDABURY: I object. That is basing it on hearsay.

A. I could not say. I was only looking out for our own purchases at that time.

By MR. DICKINSON:

Q. When you made purchases of ore from the several vendors of ores that you have mentioned state what the con-

dition was as to uniformity of prices of the various vendors.

A. The prices were practically the same.

Q. Were there any variations, and, if so, what?

A. Some slight variations.

Q. What did those variations depend upon?

A. Well, they were dependent upon the metallic content of the ore, the percentage of phosphorous in the ore. Our purchases were largely Bessemer ores, where the presence of phosphorous was an important factor.

Q. The prices were substantially the same, as I understand you, but there were some variations, those variations depending upon the metallic content of the ore and the phosphorous?

A. Yes; and then on the physical condition of the ore?

By MR. COLTON:

Q. Can you identify that contract (handing paper to witness)?

A. Yes, sir.

MR. COLTON: I offer this contract in evidence.

MR. LINDABURY: The contract has not been identified. Does it bear his signature?

MR. COLTON: Do you object to the form of identification?

MR. LINDABURY: Simply to say "I identify it" is a conclusion.

MR. SEVERANCE: It does not prove the market price anyway.

By MR. COLTON:

Q. Do you recognize that contract as one of the contracts of the Pennsylvania Steel Company with the parties named therein?

MR. SEVERANCE: May I suggest that that would not mean anything in the record unless you have the contract marked for identification by a number.

MR. COLTON: I will number it first. I will get the stenographer to mark it.

(The paper referred to was thereupon marked "Government Exhibit No. 116 for identification, June 12, 1912.")

By Mr. Colton:

Q. Do you identify Government's Exhibit No. 116 marked for identification June 12, 1912, as a contract entered into between the Pennsylvania Steel Company and the Stevenson Iron Mining Company?

A. Yes.

Q. What did you have to do with that contract?

Mr. Severance: Do you mean the making of it?

Mr. Colton: Yes, or anything else.

Mr. Severance: What does that question mean?

Mr. Colton: I asked what he had to do with the contract, and I left it for the witness to judge.

Mr. Severance: Do you mean with the making of it?

Mr. Lindabury: Before making, or with its execution?

By Mr. Colton:

Q. What did you have to do with the contract? Will you answer that?

A. Would you like me to tell the whole story?

Q. Yes.

A. Mr. McKinney, of Corrigan, McKinney, came on and was very anxious for us to make a contract for a large tonnage of ore, and he made to us—this was to Mr. Felton and myself—he made what was an attractive proposition.

Mr. Lindabury: We do not hear you very well.

The Witness: Mr. McKinney of Corrigan, McKinney & Company, who were large ore factors in Cleveland, came on and wanted us to make a contract over a period of years for some of this Stevenson ore. He asked us to make a contract for ten years to take 200,000 tons a year, and at that time we did not know about the size of the mine or whether they would be able to do it, but we finally decided to make a contract for three years at the price stated in the contract, 200,000 tons a year, which was afterwards executed—the contract was executed and the ore all delivered on it at that price.

By MR. COLTON:

Q. Was he willing to make a contract with you for ten years at the same price as stated in that contract?

MR. LINDABURY: Objected to as irrelevant, calling for the witness' opinion or for hearsay or I do not know what else, but everything almost that is immaterial.

By MR. COLTON:

Q. Answer the question.

(The question was read by the steographer as above recorded.)

MR. LINDABURY: I object further, because the witness cannot possibly know what his secret mental operation or attitude was.

MR. COLTON: Read the question.

(The question was read by the stenographer as above recorded.)

A. He stated that he was willing to.

By MR. COLTON:

Q. He offered to do it at that price?

A. He offered to do it.

MR. LINDABURY: I object, and move to strike it out.

By MR. COLTON:

Q. In entering into a contract for the purchase of ore, what matters do you take into account in respect of phosphorus and metallic content?

MR. LINDABURY: Objected to as irrelevant and immaterial.

MR. COLTON: Repeat the question, and answer it.

(The question was read by the stenographer as above recorded.)

A. If the ore is to be used for making Bessemer pig iron, the presence of phosphorous above a certain percentage is objectionable, and the value of the ore is largely dependent upon the number of metallic units in the ore.

By MR. COLTON:

Q. Do they have some standard upon which other prices of ore are calculated, too?

A. I do not know.

MR. LINDABURY: Objected to.

MR. REED: Does who have some standard?

MR. COLTON: He says he does not know.

MR. LINDABURY: Does not know whether some unknown persons have some unknown standards with respect to some unknown comparison. He says he does not know.

MR. REED: That probably will not hurt us.

MR. COLTON: No; I thought you would not object to that, probably.

By MR. COLTON:

Q. What kind of ore was that?

MR. LINDABURY: Objected to as irrelevant and calling for the contents of a written paper.

By MR. COLTON:

Q. What kind of ore was this?

A. Ore from the Missabe Range.

MR. COLTON: I offer that contract in evidence.

MR. LINDABURY: Objected to as irrelevant and not properly proven.

MR. REED: And as incompetent to prove a market price, which is the object of the offer.

MR. LINDABURY: And incompetent for any other purpose.

(Original agreement between the Stevenson Iron Mining Company of Cleveland, Ohio, and the Pennsylvania Steel Company, dated August 26, 1901, marked Government's Exhibit 116, June 12, 1912.)

MR. COLTON: I will take advantage of your objection on that, and ask the witness if he can identify the signatures on the contract.

THE WITNESS: I can.

MR. COLTON: I ask to have this marked for identification first.

(Ore contract between the Stevenson Iron Mining Company and the Maryland Steel Company, dated December 23, 1902, marked Government's Exhibit No. 117, for identification, June 12, 1912.)

By Mr. Colton:

Q. I will ask you if you recognize the signatures to Government's Exhibit No. 117, marked for identification, June 12, 1912.

A. I can.

Q. Did your company operate under that contract?

Mr. Lindabury: Objected to as irrelevant and immaterial.

A. What do you mean by our company?

By Mr. Colton:

Q. State whether or not the ore was supplied to your company under that contract.

A. What do you mean by "your company"?

Mr. Lindabury: Objected to as immaterial and irrelevant.

By Mr. Colton:

Q. I mean the Maryland Steel Company.

A. Yes; that is the Maryland Steel Company's signature on that.

Mr. Reed: The witness has not been shown to know anything about the Maryland Steel Company.

Mr. Colton: He said he did. I asked if he recognized that signature.

The Witness: I recognized the signature. It is my signature.

By Mr. Colton:

Q. I will ask you whether ore was supplied under that contract to the Maryland Steel Company or not?

A. Yes; it was supplied to the Maryland Steel Company,

but I have not been identified with the Maryland Steel Company.

Q. To what character of ore does that contract apply?

MR. REED: Objected to because the contract is the best evidence of its contents.

By MR. COLTON:

Q. What class of ore? Where does that ore come from?

A. It comes from the Stevenson mine.

Q. Where is that located?

A. In the Missabe region.

Q. Is that the same general class of ore that was referred to in the preceding contract which I showed you?

A. From the same mine.

Q. Is this ore at a higher or a lower price than the preceding contract?

MR. LINDABURY: Objected to as calling for a comparison of the writings.

MR. COLTON: I will point out why it does not call necessarily for a comparison of the two writings.

MR. LINDABURY: Then it calls for a speculation.

By MR. COLTON:

Q. I ask you to look over these two contracts (handing witness Government Exhibit No. 116 and Government Exhibit 117 for identification), and ask you whether the price in the second contract is higher or lower than the price in the first contract.

A. Higher in the second contract.

Q. Why do you state the price to be higher in the second contract than in the first contract?

A. Because in the first contract it was $2.75 and in the second $3.05.

Q. Does that necessarily follow, when you are dealing in ore contracts, simply because the price in one contract is stated higher than the price in another contract, without look-

ing at the amount of phosphorous in the ore or without looking at the amount of metallic content?

A. This is the same ore.

MR. LINDABURY: I object to that as a scientific inquiry from a witness who has not been qualified.

By MR. COLTON:

Q. Is it the same character of ore?

A. It is the same character of ore.

MR. COLTON: We will qualify him before we get through. He does not need to be qualified when it is the same character of ore.

MR. LINDABURY: He does not need to be qualified as to whether two and three-quarters is as much as three and four-fifths.

MR. COLTON: We will mark this contract for identification.

(Ore contract between Biwabik Mining Company and the Pennsylvania Steel Company, dated September 27th, 1905, marked Government Exhibit No. 118 for identification, June 12, 1912.)

By MR. COLTON:

Q. Can you identify Government Exhibit 118, marked for identification June 12, 1912?

A. I can.

Q. Whose signature is that?

A. My signature.

Q. For whom did you sign that contract?

A. Pennsylvania Steel Company.

Q. Did the Tod-Stambaugh Company furnish ore to the Pennsylvania Steel Company under that contract?

A. It did.

Q. State whether or not the price of ore named in the contract dated September 27, 1905, is higher or lower than the price of ore in the contract dated August 26th, 1901, marked Government Exhibit No. 116.

MR. REED: That is objected to for the reason that the contracts speak for themselves; also as irrelevant and immaterial.

THE WITNESS: It is higher in the contract marked Government's Exhibit No. 118, dated September 27, 1905.

The prices in all these contracts are put right down. It is a mere matter of reading them.

By MR. COLTON:

Q. Is that the same kind of ore? Is it exactly the same kind of ore?

A. It is practically the same.

Q. What is the difference in the class of ore?

A. It comes from a different mine.

Q. Is the metallic content the same?

A. The contract states that in this. The metallic content in this contract (Government Exhibit No. 118) is 57.04 per cent, in the contract marked Government Exhibit No. 116 it is 59.15 per cent.

Q. Do you call that substantially the same?

A. Substantially.

MR. SEVERANCE: There is an arrangement for adjustment on the basis of their unit; the customary arrangement?

THE WITNESS: That is it; the customary arrangement.

By MR. COLTON:

Q. State whether the price named in Government Exhibit No. 118 is higher than that named in Government Exhibit No. 117?

MR. REED: That is objected to as immaterial.

THE WITNESS: It is higher in Government Exhibit 119 than it is in Exhibit 118.

By MR. COLTON:

Q. State whether or not the prices named in Government Exhibits 116, 117 and 118, represent substantially the market prices for those years?

MR. REED: That is objected to as incompetent and irrele-

vant. It is objected to further because the witness has not been shown to know the market prices in those years.

By MR. COLTON:

Q. Did you purchase ore in each of those years?

A. In each of those years, yes.

Q. Did you make a number of contracts in each of those years?

A. A number of them.

MR. LINDABURY: What is that question?

(The stenographer read the question, as follows:)

"Q. State whether or not the prices named in Government Exhibits 116, 117 and 118, represent substantially the market prices for those years."

MR. LINDABURY: Objected to further, as leading.

THE WITNESS: I am not prepared to say whether that price in Government Exhibit No. 116 represents the market price or not.

By MR. COLTON:

Q. How far did it vary from the market price?

MR. REED: That is objected to as the witness has stated that he is not competent to answer.

MR. COLTON: I do not think he has so stated.

I ask to have the question repeated.

(The pending question was read by the stenographer.)

THE WITNESS: I could not say in regard to that 116 exhibit. That was a special contract covering delivery of ore over three years.

By MR. COLTON:

Q. Was the market price of ore lower or higher in 1905 for 1906 delivery than it was in 1901 for subsequent delivery?

MR. REED: That is objected to because the witness has stated that he does not know.

THE WITNESS: It was higher in 1905 for 1906 delivery.

By MR. COLTON:

Q. Was it very much higher?

MR. LINDABURY: I object. I submit, Mr. Colton, that the only proper inquiry is what was the market price for the one year or the other. If you want to know, we can make the comparison, or the court can do so. If you wish to know the price in the different years, ask for that.

MR. SEVERANCE: I think you have already got that in the record. You put that in yesterday.

MR. COLTON: I think not.

MR. SEVERANCE: That appeared from that book of metal statistics yesterday.

MR. REED: Yes. It has been in evidence a month.

MR. SEVERANCE: Mr. Trench put it in yesterday.

By MR. COLTON:

Q. Do you know, approximately, the market price for 1902?

A. I do not recall it for 1902. I have not any contracts here excepting this special contract, and it is my opinion that was a little below the market price of ore for that year.

Q. Is it your opinion that the market price was lower in 1902 than it was in 1905?

MR. REED: That is objected to as incompetent, irrelevant and immaterial.

THE WITNESS: It was lower in 1902.

By MR. COLTON:

Q. I will ask you if you can identify this paper, dated January 28, 1905?

A. Yes; I can identify that.

(The paper referred to was thereupon marked Government Exhibit No. 119, for identification, being agreement be-

tween the Biwabik Mining Company, by its agents, the Tod-Stambaugh Company, and the Pennsylvania Steel Company, dated January 28, 1905.)

Q. Whose signature is that? (Indicating.)

A. That is my signature.

Q. Did the Tod-Stambaugh Company furnish ore to that company under that contract?

MR. REED: That is objected to as irrelevant and immaterial.

THE WITNESS: Yes; they furnished the ore called for in that contract.

MR. LINDABURY: Is there very much of this comparison, Mr. Colton?

MR. COLTON: I consider this material.

MR. LINDABURY: I assume you do, or you would not be putting it in. I say is there very much of it?

MR. COLTON: No.

I offer in evidence this contract which has been marked Government Exhibit No. 119, for identification. I am going through the rest of these contracts.

It will save time, of course, if I could have him identify these contracts in a body.

MR. REED: We might stipulate that $3.05 is more than $2.75.

MR. COLTON: But that is not the point, as you well understand.

MR. SEVERANCE: We really do not know what the point is.

MR. COLTON: I am showing that the market price advanced very materially during those years.

MR. SEVERANCE: You cannot show it in this way.

MR. LINDABURY: Do not your metal statistics, that were put in yesterday, show that? You cannot prove the market price in this way.

MR. SEVERANCE: You cannot prove the market price by sporadic sales.

MR. COLTON: This witness testified the market price was higher in 1906 than in the other years.

MR. SEVERANCE: What do you need of these contracts, then?

MR. REED: Your offer of the last contract is objected to as irrelevant, incompetent and immaterial.

MR. LINDABURY: What do you want these contracts in for?

MR. COLTON: I think they are material, and I want them in.

MR. LINDABURY: You want them in? What is the legal ground on which you ask for their admission?

MR. COLTON: They are large contracts, and the natural inference is that he tried to get the contracts at as low a price as he could during those years. It is relevant, and I offer it in evidence.

By MR. COLTON:

Q. Do you identify this paper, dated March 1, 1905?

A. Yes; I can identify that.

(The paper referred to was marked Government Exhibit No. 120 for identification, being agreement between the Biwabik Mining Company, by its agents the Tod-Stambaugh Company and the Pennsylvania Steel Company, dated March 1, 1905.)

Q. Whose signature is that (indicating)?

A. That is my signature.

MR. REED: Do you offer that paper in evidence?

MR. COLTON: Yes.

MR. REED: That is objected to as incompetent and irrelevant and immaterial, and not a proper way to prove the market price.

MR. LINDABURY: And, further, that they have not properly proven it. The signature of the other party to it has not been identified. That has not been done in the case of any of these contracts. You cannot prove a contract by proving the signature of one party to it.

By MR. COLTON:

Q. Do you recognize the signature of the company signing there with your company?

MR. LINDABURY: That is a rubber stamp signature, is it not?

MR. COLTON: No.

MR. LINDABURY: Let me see that.

THE WITNESS: The secretary of the company executed it.

MR. COLTON: I have not heard that objection made to the rest of them. I suppose that goes back to the others?

MR. LINDABURY: Now you hear it. You will have to prove that that is the signature of the secretary and that he was the secretary of this company and authorized to execute these contracts.

By MR. COLTON:

Q. Do you recognize that signature?

A. Which one?

Q. The signature of J. T. Frawley, Secretary?

A. We accepted that as his signature.

MR. LINDABURY: That is not the question. Do you know that to be the handwriting of that man?

THE WITNESS: No; I do not know it to be the handwriting of that man. I do not know the man.

By MR. COLTON:

Q. Did the Tod-Stambaugh Company furnish the ore named in that contract to the Pennsylvania Steel Company under that contract?

A. Yes, sir.

MR. REED: That is objected to as incompetent and irrelevant.

MR. COLTON: I offer that contract in evidence.

MR. REED: That is objected to as incompetent, and as not properly proven.

By MR. COLTON:

Q. Where did that contract come from (exhibiting paper to the witness)? Where did you get it?

A. I got it out of our records.

Q. Out of the records of what company?

A. The Pennsylvania Steel Company.

MR. COLTON: I ask to have that marked for identification.

(The paper referred to was thereupon marked Government Exhibit No. 121 for identification, being agreement between the Biwabik Mining Company, by its agent, the Tod-Stambaugh Company, and the Pennsylvania Steel Company, dated March 11, 1905.)

By MR. COLTON:

Q. You obtained that from the records of the Pennsylvania Steel Company?

A. It was a part of their records.

MR. COLTON: I offer that paper in evidence.

MR. REED: That is objected to, as the execution of it has not been proven.

By MR. COLTON:

Q. I ask where you got the paper I now hand you, dated November 29, 1905.

A. I got it out of our records; from the file of completed contracts.

(The paper so identified was thereupon marked Government Exhibit No. 122 for identification, being agreement between the Biwabik Mining Company, by its agents, the Tod-Stambaugh Company, and the Pennsylvania Steel Company, dated November 29, 1905.)

Q. Who signed that contract for the Pennsylvania Steel Company?

A. I did.

Q. Did the Tod-Stambaugh Company furnish the ore under the contract marked Government Exhibit No. 122?

A. It did.

MR. COLTON: I offer that paper in evidence.

MR. REED: That is objected to as not having been properly proven, and therefore incompetent. Also as irrelevant and immaterial.

By MR. COLTON:

Q. Where did you get the paper I now show you, dated December 6, 1905?

A. From the files of the Pennsylvania Steel Company.

(The paper so identified was thereupon marked Government Exhibit No. 123 for identification, being agreement between the Malta Iron Company of Sparta, Minnesota, by its agents, Pickands, Mather & Company, of Cleveland, Ohio, and the Pennsylvania Steel Company, of Steelton, Pennsylvania.)

Q. Do you recognize the signature to that contract?

A. I do.

Q. Did the Pickands, Mather Company furnish the ore specified in that contract to the Pennsylvania Steel Company?

A. They did.

MR. REED: You identify this signature of Pickands, Mather & Company?

THE WITNESS: I do.

MR. COLTON: I offer in evidence the contract dated December 6, 1905, marked Exhibit No. 123.

MR. REED: That is objected to as incompetent, irrelevant and immaterial.

By MR. COLTON:

Q. Do you identify this paper, dated December 29, 1905?

A. I do.

(The paper so identified was thereupon marked Government Exhibit No. 124 for identification, being agreement between the Cleveland-Cliffs Iron Company, of Cleveland, Ohio, and the Pennsylvania Steel Company, of Philadelphia, Pennsylvania, dated December 9, 1905.)

Q. Do you identify the signatures to this paper, which has been marked Government Exhibit No. 124 for identification?

A. I do.

MR. COLTON: I offer in evidence the paper just referred to.

MR. REED: That is objected to for the same reason stated for the last offer. You do not mind my not repeating it at length, Mr. Colton?

MR. COLTON: No. The last time you did not object to it on account of the signature.

By MR. COLTON:

Q. I ask you if you identify this paper, which I now hand you, dated December 9, 1905?

A. I do.

(The paper so identified was thereupon marked Government Exhibit No. 125 for identification, being agreement between LaRue Mining Company, of Minnesota, by its agents, the Tod-Stambaugh Company of Cleveland, Ohio, and the Pennsylvania Steel Company of Philadelphia, Pennsylvania, dated December 9, 1905.)

Q. I ask if you can identify the signatures to that contract?

A. I can.

MR. REED: All of the signatures?

THE WITNESS: Both of them, on this one.

By MR. COLTON:

Q. Did the Tod-Stambaugh Company furnish the ore under the contract marked Government Exhibit 125 for identification?

A. It did.

MR. COLTON: I offer in evidence the paper just referred to.

MR. REED: The same objection.

MR. COLTON: Mark this for identification.

(Paper marked Government Exhibit No. 126 for identification, June 12, 1912.)

By MR. COLTON:

Q. Do you identify the signatures to Government Exhibit No. 126 for identification?

A. Both of them.

MR. COLTON: I offer Government Exhibit No. 126 for identification in evidence.

MR. REED: Same objection to that offer.

(Ore contract between the Commodore Mining Company of Cleveland, Ohio, and the Pennsylvania Steel Company, dated October 31, 1906, marked Government Exhibit No. 126 June 12, 1912.)

By MR. COLTON:

Q. Did the Commodore Mining Company, by its agents, Corrigan, McKinney & Company, furnish the ore mentioned in that contract to the Pennsylvania Steel Company?

A. They furnished it.

MR. COLTON: Mark this 127.

(The paper referred to was marked Government Exhibit No. 127 for identification, June 12, 1912.)

By MR. COLTON:

Q. Do you identify the signatures to the contract, Government Exhibit No. 127 for identification?

A. Both signatures.

MR. COLTON: I offer Government Exhibit 127 for identification in evidence.

MR. REED: Same objection.

(Ore contract between the Commodore Mining Company of Cleveland, Ohio, and the Pennsylvania Steel Company, dated November 7, 1906, marked Government Exhibit 127, June 12, 1912.)

MR. COLTON: Mark this.

(Paper marked Government Exhibit No. 128 for identification, June 12, 1912).

By MR. COLTON:

Q. Do you identify the signatures on that contract, Government Exhibit No. 128 for identification?

A. Both signatures.

MR. COLTON: I offer Government Exhibit No. 128 in evidence.

MR. REED: Same objection.

(Ore contract between the Cleveland-Cliffs Iron Company and Pennsylvania Steel Company, dated November 10, 1906, marked Government Exhibit No. 128, June 12, 1912.)

By MR. COLTON:

Q. Did the Cleveland-Cliffs Iron Company furnish the ore referred to in that contract to the Pennsylvania Steel Company?

A. It did.

MR. COLTON: Mark this for identification.

(Paper marked Government Exhibit 129 for identification, June 12, 1912.)

By MR. COLTON:

Q. I ask you if you can identify Government Exhibit No. 129 for identification?

A. As to the signatures?

Q. Yes.

A. Both signatures.

Q. Did the Malta Iron Company, by its agents, Pickands, Mather and Company, furinsh the ore referred to in that contract to the Pennsylvania Steel Company?

A. They did.

MR. COLTON: I offer Government Exhibit No. 129 for identification in evidence.

MR. REED: Same objection.

(Ore Contract between the Malta Iron Company and the Pennsylvania Steel Company, dated November 12, 1906, marked Government Exhibit No. 129, June 12, 1912.)

MR. COLTON: Will you mark that?

(Ore contract between the Stevenson Iron Mining Company and the Maryland Steel Company, May 6, 1906, marked Exhibit 130 for identification, June 12, 1912.)

By MR. COLTON:

Q. I will ask you if you can identify the signatures to 130.

A. Both signatures I can identify.

Q. Did the Stevenson Iron Mining Company, by its agent Corrigan, McKinney & Company, furnish the ore referred to in that contract to the Maryland Steel Company.

A. It did.

Q. I ask you whether or not the market price for ore for delivery in the year 1906 was higher or lower than for the years preceding 1901.

MR. REED: Objected to as incompetent, irrelevant, immaterial, not the proper way of proving that fact.

A. Prior to 1901, did you say?

By MR. COLTON:

Q. Prior to 1901.

A. That is a matter of record. I have no facts to base an answer on to that.

Q. I ask you whether or not the market price for delivery in 1907 was higher than for delivery in 1902 and 1903.

A. Yes; it was higher.

Q. I ask you whether it was substantially higher or not.

MR. REED: Objected to as incompetent and irrelevant.

A. The contract is there. Of course I do not know what you mean by substantially higher. A dollar a ton higher.

Q. Was it a dollar a ton higher?

A. Yes, a dollar a ton higher at least.

MR. COLTON: I suggest that these contracts be received in evidence, as we have some other contracts, but not to be printed, unless called for by either side. Is that acceptable?

MR. LINDABURY: We object to their being received in evidence, but having been offered we agree that they shall not be printed unless called for, as you say.

MR. REED: Are you through with the witness?

MR. COLTON: Yes. That is all.

MR. REED: No cross-examination.
(Witness excused).

(Whereupon, at 3:50 p. m. an adjournment was taken until to-morrow, Thursday, June 13, 1912, at 10:15 o'clock a. m.)

EIGHTEENTH DAY.

ROOM 720 CUSTOM HOUSE,
NEW YORK, N. Y.

THURSDAY, JUNE 13, 1912.

The hearing was resumed at 10:15 a. m. before SPECIAL EXAMINER JOHN ARTHUR BROWN:

Appearances the same as heretofore noted.

J. V. W. REYNDERS,

called as a witness on behalf of the United States, being first duly sworn, testified as follows:

DIRECT EXAMINATION.

By MR. DICKINSON:

Q. Mr. Reynders, what is your age?

A. Forty-five.

Q. Where do you live?

A. Steelton, Pennsylvania.

Q. How long have you lived there?

A. For the last six years.

Q. In what business are you now engaged?

A. In the steel business; as vice-president of the Pennsylvania Steel Company.

Q. How long have you been vice-president of that company?

A. Six years.

Q. What are your special duties in connection with that office?

A. At the present time I am in charge of the operation of the Steelton works.

Q. And how long have you been doing that?

A. During the last six years.

Q. Before that, were you or not connected with that company?

A. Yes; I have been connected with the Pennsylvania Steel Company for twenty-one years; and prior to my present position I was in charge of the bridge department.

Q. How long had you been in charge of the bridge department?

A. Fifteen years prior to my present position.

Q. State what your duties were in connection with that.

A. My duties in that connection consisted in the general direction of the affairs of the bridge department, including the marketing of its products, and the operating of the department generally.

Q. What did that bridge department make and what did they sell or what did they do in the way of contracts?

A. We specialized in the manufacture of heavy bridge and structural work.

Q. By structural work you mean such work as is put in buildings?

A. For buildings, both office and mill buildings.

Q. In what form did you begin working on the material?

A. We would take the so-called plain rolled material as it comes from the rolling mills, and that would be fabricated into the finished shapes as they entered into bridges or buildings.

Q. That is, by the bridge department?

A. Yes.

Q. Did the Pennsylvania Company have a rolling mill department?

A. It did.

Q. Did you get all of your material that you fabricated in the bridge department from that or did you buy some of it elsewhere?

A. We rolled, ourselves, about one-half.

Q. Where did you get the other?

A. That was purchased in the open market.

Q. You also had charge of the sales department; does that include the work of making contracts?

A. Yes.

Q. What class of work was that? Building bridges?

A. Building bridges and buildings. In fact, it covers the entire output of the bridge department.

MR. LINDABURY: I understood him to say heavy bridge work and structural work.

MR. DICKINSON: Yes.

BY MR. DICKINSON:

Q. State whether or not the fact that you had charge of the bridge department and the sales department, that brought you in contact, generally, with others in the markets of this country who were producing and selling the same class of work that you were?

A. It did.

Q. Where did your company sell or contract to construct this bridge work and structural work? In what parts of the country?

A. Our activities extended throughout the country and also into foreign countries.

Q. That is to say, throughout the United States?

A. Yes.

Q. In 1900, just before the formation of the American Bridge Company, state what concerns in this country were competitors of yours in the class of work that you were bidding on, as you have described, such as large bridge work and structural work. What were the large competitors doing that class of work?

A. Do you want the names, individually, or in a general way the conditions?

Q. I would like to have you state the names of the companies competing with your company in the United States and also with each other in that class of work in which your company was seeking sales and contracts.

A. In a general way there were about sixty concerns that I should consider were in more or less active competition with one another. Of those sixty I might mention, besides the name of our own company, those that went into the company—do you want those that went into the American Bridge Company or only those outside?

Q. Yes; just before the formation of the American Bridge Company. I want all those who were competitors for that class of work.

A. I would mention the Pennsylvania Steel Company; the

McClintic-Marshall Construction Company; the Fort Pitt Bridge Company—have you any objection to my reading them from my own memorandum?

Q. Have you made a memorandum?

A. Yes, sir; I have. I can save time by referring to it.

Q. Did you make it yourself?

A. Yes; I made it myself.

Q. If you can look at the memorandum and refresh your memory and then state that you remember that to be as it is set forth there, you may do that.

A. I will say that I was assisted in making this up by reference to the directory of the Iron & Steel Association, but I segregated the concerns which I considered were in active competition with ourselves at that time.

And of these competitive plants I mention the following: The Boston Bridge Works, the R. F. Hawkins Iron Works, New England Structural Company, Milliken Brothers, Owego Bridge Company, J. B. & J. M. Cornell, Jackson Architectural Iron Works, Passaic Steel Company, Brown-Ketchum Iron Works, Eastern Steel Company, Fort Pitt Iron Works, McClintic-Marshall Construction Company, Penn Bridge Works, Pennsylvania Steel Company, the Phoenix Bridge Company, Riter-Conley Manufacturing Company, Baltimore Bridge Company, Virginia Bridge & Iron Company, Louisville Bridge & Iron Company, Bellefontaine Bridge & Iron Company, the Canton Bridge Company, the King Bridge Company, the Massillon Bridge Company, Riverside Bridge Company, Indiana Bridge Company, Noelke-Richard Iron Works, Chicago Bridge & Iron Company, Kenwood Bridge Company, Modern Steel Structural Company, Wisconsin Bridge & Iron Company, Minneapolis Steel & Machinery Company, St. Paul Foundry Company, Clinton Bridge & Iron Works, Des Moines Bridge & Iron Works, Missouri Valley Bridge & Iron Works and Jones & Laughlin Steel Company. I will say that those were the concerns with which at that time we were apt to come into competition. Some of them were very small concerns, but I mentioned all those that I thought by any possible chance we might have competed with, and they are thirty-seven in number. There is an additional list now of—

Q. Wait a minute before you get to that.
A. I have not finished the list.

MR. SEVERANCE: I suggest he be allowed to finish.
MR. LINDABURY: He said he had not finished his answer.

By MR. DICKINSON:

Q. All right, proceed.
A. I would like to say those I have not mentioned are those that went into the American Bridge Company.
Q. All right, read the list.

MR. LINDABURY: Then those you have mentioned did not go into the American Bridge Company?

A. Those I have mentioned did not go into the American Bridge Company.

MR. LINDABURY: Now you are to give a list of those that did.
THE WITNESS: Yes. I thought it would save time to put it that way.

By MR. DICKINSON:

Q. Just go on in your own way now.
A. Pencoyd Iron Works, A. & P. Roberts Company is the other name. Lassig Bridge & Iron Works. American Bridge Works, Elmira Bridge Company, New Jersey Steel & Iron Company, Toledo Bridge Company, Edge Moor Bridge Works, Post & McCord, Gillette-Herzog Manufacturing Company, Wrought Iron Bridge Company, Shiffler Bridge Works, Keystone Bridge Company, Pittsburg Bridge Company, Schultz Bridge Company, Youngstown Bridge Company, Union Bridge Company, Berlin Iron & Bridge Company, the J. G. Wagner Company, Groton Bridge Manufacturing Company, Hilton Bridge Construction Company, Rochester Bridge & Iron Works, Buffalo Bridge & Iron Works, New Columbus Bridge Company, Lafayette Bridge Company, Horseheads Bridge Company.
I might also mention that although not originally taken into the American Bridge Company I have not mentioned the

Koken Iron Works, and the Detroit Bridge & Iron Works, both of which were subsequently absorbed by the American Bridge Company.

Q. In the list which you first gave, which was a list of about sixty, were included—

MR. LINDABURY: No, Judge, you are wrong.

A. The first list included thirty-seven.

By MR. DICKINSON:

Q. Thirty-seven, was it?

A. Yes.

Q. In the first list which you gave, that is, 37, you say, as I understand you, is included all these among which there was any possible competition. You said something to that effect. Just explain that fully.

A. I would say that of these thirty-seven which I mentioned any one of them might at any time have been in competition with us. There are, as I stated, certain concerns there which are very small and which would not be considered, perhaps, as serious competitors, nevertheless it includes the list which from time to time we might have been in competition with.

Q. And that in addition to those you mentioned that went into the American Bridge Company, makes up how many?

A. Makes up—I did not count them; approximately sixty, I stated.

Q. Look at that list you have just read of the companies that went into the American Bridge Company and state which of these competed with your company for the work of larger tonnage?

A. They all competed, with the exception of the following Groton Bridge & Manufacturing Company, Hilton Bridge Construction Company, the Buffalo Bridge & Iron Works, New Columbus Bridge Company, Lafayette Bridge Company, Horseheads Bridge Company and the Koken Iron Works.

Q. Where did they compete? In what parts of the United States?

A. As a rule throughout the United States. In the case

of one or two of them the competition might have been to some extent local, but in each case it would cover more than one state, I should say.

Q. Those, you say, were in competition with your company, all of them in more than one state, and most of them generally throughout the country.

A. Yes sir.

Q. Were they in competition with each other?

A. Yes.

Q. What was the gross tonnage, as near as you can state it, in 1900, of all these companies which you have mentioned, including the first list and the list that went into the American Bridge Company?

A. I should say 950,000 net tons.

Q. How much, at that time, did those companies that went into the American Bridge Company produce, or what percentage of the total?

A. The American Bridge Company plants, I believe, produced about 54 per cent. of the total.

Q. Were there any other plants that were classed in reports and trade books as fabricating works which, on account of their local character and small output, did not compete for the class of work that your company and these larger companies competed for?

A. There were about seventy of such concerns that have been referred to in the trade publications.

Q. What was the tonnage of those in 1900?

A. I should estimate the tonnage of those to have been 250,000 tons, roughly speaking.

Q. State, if you know, which of the plants acquired by the American Bridge Company were shut down in whole or in part, and within what periods, as near as you can state, after the formation of the American Bridge Company?

A. There were five plants in the so-called Pittsburg District which were shut down within two or three years after the formation of the American Bridge Company, as far as I recollect, consisting of the Shiffler, Keystone, Pittsburg, Schultz and Youngstown plants, and these were replaced at the same time by the Ambridge plant of about double the abandoned capacity.

Q. Where was the Ambridge plant located?

A. Near Pittsburg. In addition—

Q. If there were any that were entirely closed—

MR. LINDABURY: One moment. He has not finished his answer.

MR. DICKINSON: I thought he had.

A. (Continuing) I was going to proceed and say that in addition to those the following plants were discontinued: Union Bridge Company, Berlin, J. G. Wagner, Groton, Hilton, Rochester, Buffalo, New Columbus, Lafayette, Horseheads and Koken. I would like to say that my authority is merely general knowledge of the business and trade reports.

By MR. DICKINSON:

Q. State whether you acquired during the progress of your business a knowledge of the conditions affecting your business, especially in respect of what competitors were in the market or coming into the market as producers or going out of the market as producers.

A. I did.

Q. Based upon the knowledge acquired that way, state whether or not these concerns mentioned closed within five years after they were acquired by the American Bridge Company.

A. To the best of my knowledge, that is a fact.

Q. Name four or five of the strongest companies with which your company competed in 1900, before the formation of the American Bridge Company.

A. I would mention the Pencoyd, the Lassig, the American (that is, the Chicago plant), the Elmira Bridge Company, the Edge Moor, and Shiffler.

MR. SEVERANCE: Does that question mean to cover only companies that went into the Bridge Company? I do not think the witness understood it. He left out the Phoenix, for instance, and I think he must have understood you to mean the companies that went into the Bridge Company.

By Mr. Dickinson:

Q. You may have left out some. I asked you to name four or five of the strongest companies.

A. Under those circumstances I would add Phoenix and King.

Q. In asking you in regard to which of the constitutents of the American Bridge Company competed within two or more states, I do not recall that I asked you which of them competed in fabricating bridge or structural work. To be sure that I have covered it I will ask you that question. Which of them competed in two or more states, in fabricating bridge or structural work in 1900, before the formation of the American Bridge Company?

A. All of those which I mentioned as competing concerns competed both in bridge and structural work.

Q. Which of the constitutents of the American Bridge Company sold plain material in two or more states in 1900, before the formation of the American Bridge Company?

A. The Pencoyd is the only one I know of.

Q. State whether or not at the time of the formation of the United States Steel Company the Carnegie Company and the Illinois Steel Company sold plain structural material.

A. They did.

Q. That is, by plain structural material you mean rolled material?

A. Yes, rolled shapes, which include angles, I-beams, channels, et cetera.

Q. And that was taken by the fabricating plant and worked up for building work?

A. Yes, sir.

Q. Where were the Roberts Company and the Carnegie Company and the Illinois Steel Company selling that rolled material?

A. They were selling rolled material in the general market throughout the country.

Q. Outside of the states where they were produced?

A. Yes.

Q. If there is any disadvantage that a fabricating plant not connected with a rolling mill is under in competition with

competitors who are connected with rolling mills, state what it is.

A. I should say that the disadvantage referred to arises from the fact that such concerns are compelled to purchase their raw materials in the open market, and that in times when competition is unusually keen they would necessarily be compelled to depend for their profits solely on the one operation, which is the operation of fabricating the bridge and structural work, whereas mills having rolling mill affiliations, have the opportunity to make part or all of their profits in the operations which precede the final operation of fabricating the product of the bridge shops.

Q. Taking the entire capacity of the fabricating works in the United States for the years 1901 and 1902, after the formation of the United States Steel Corporation, what percentage of capacity was possessed by those independent mills which were connected with rolling mills and what percentage was possessed by those concerns which were in the American Bridge Company and controlled by the United States Steel Corporation?

A. You now want the comparison with the total capacity of the country that I mentioned?

Q. Yes, with the comparative percentages.

MR. LINDABURY: Objected to as irrelevant and immaterial.

A. At the time indicated the independent fabricating plants which had rolling mill affiliations produced about ten per cent of the total fabricating work of the country; the American Bridge Company plants about 43 per cent; and the remaining plants 47 per cent.

By MR. DICKINSON:

Q. What do you mean by the remaining plants?

MR. LINDABURY: Plants not having rolling mill affiliations.

A. All plants having no rolling mill affiliations, included in the competitive list which I gave you and the list of local concerns.

By Mr. Dickinson:

Q. I do not think my question made it plain to you exactly what I wanted. I wanted you to take as a total the capacity for production of all structural plants that were connected with rolling mills, and then the percentage of that capacity that was possessed by the independent concerns connected with rolling mills, and the percentage of that capacity that was possessed by the American Bridge Company.

Mr. Lindabury: That was not what you asked him.

Mr. Dickinson: Do you understand the question?

The Witness: I do.

Mr. Lindabury: I am not sure that I understand it. I would like to have it read.

(The question was repeated by the stenographer as above recorded.)

By Mr. Dickinson:

Q. Do you understand that question?

A. I do.

Q. Answer it.

Mr. Lindabury: Objected to as irrelevant and immaterial.

A. The percentage of capacity referred to possessed by the independent fabricators having rolling mill affiliations was between 15 and 20 per cent, and that of the American Bridge Company plants from 80 to 85 per cent.

By Mr. Dickinson:

Q. The question just answered by you referred to the period of about 1901 and 1902, after the formation of the United States Steel Company. Now, please state what percentage of capacity in the year 1911 the American Bridge Company had for fabricating work as compared with independent companies which had rolling mills for the same class of work.

A. I could not answer that without referring to figures.

Q. If you have any figures that you made yourself, you

may look at them and if that refreshes your memory, you may answer the question if you think you are able to do so.

A. The relative percentage would seem to be substantially the same as they were at the previous period mentioned. That is, between fifteen and twenty per cent would represent the relative capacity of the independent plants having affiliations with rolling mills as compared with the total of plants which have such affiliations.

Q. And the balance of the percentage is controlled by the American Bridge Company?

A. By the American Bridge Company, yes.

Q. Of fabricating bridge and structural material work of the kind that you have described as having been competed for by your company and the larger competitors which you named, within the last year what percentage was taken by the American Bridge Company?

A. I will have to divide that.

MR. LINDABURY: That means, I take it, the whole work without reference to who bid for it?

MR. DICKINSON: Yes. I mean in the aggregate?

A. About fifty-nine per cent.

MR. DICKINSON: That is all.

CROSS-EXAMINATION.

By MR. LINDABURY:

Q. How do you arrive at the last figures you gave?

A. I stated that amount as being to the best of my knowledge and belief, depending on the reported work which was taken by the American Bridge Company, of which of necessity we would have information.

Q. You would not undertake to say that the American Bridge Company has gotten fifty-nine per cent of all the work it has bid on, would you?

A. No.

Q. Do you happen to know that such a statement would be entirely erroneous?

A. I have no knowledge on that subject whatever.

Q. Have you bid on all the work that they bid on?

A. No.

Q. Do you always know whether they have bid or not?

A. In cases where we bid ourselves we would, in almost every instance know whether the American Bridge Company had competed or not.

Q. And also who else had competed, I suppose?

A. Yes, sir.

Q. You have gotten considerable work in the last year in competition with the American Bridge Company, have you not?

A. Yes.

Q. And so have other concerns not connected with the American Bridge Company?

A. Yes.

Q. And some of that has been very large and important work, has it not?

A. Yes.

Q. Would you mind naming some of the work that has been gotten by yourself or others not connected with the American Bridge Company during the last two years of an important character?

A. If I can refer to a memorandum. As far as the Pennsylvania Steel Company is concerned, they have taken work during the past year for the Canadian Pacific, Western Maryland, Pennsylvania Railroad, Lake Shore & Michigan Southern, Atlantic Coast Line, Baltimore & Ohio, and a contract for the City of Portland, Oregon, among others.

Q. Were these bridges?

A. Yes; they were all bridges.

Q. What about structural work other than bridges?

A. We do not specialize particularly in structural work, although we have executed some large structural contracts.

Q. Will you give us any that you have gotten in competition with the American Bridge Company?

A. I recall the municipal building here in New York.

Q. Now under construction?

A. Yes.

Q. How large a building is that?

A. The amount of steel work entering into it was slightly in excess of 25,000 tons.

Q. What other large structures have you gotten?

A. All the roads that I mentioned covered contracts in excess of a thousand tons, and we have also had work from the Boston & Albany, which I think I did not mention, and the Minneapolis, St. Paul & Sault Ste. Marie.

Q. Did you get the Williamsburg Bridge, connecting New York and Brooklyn?

A. We got a part of it. The suspended span, and the approaches were built by our company.

Q. And in competition, I take it with the American Bridge Company?

A. Yes.

Q. Do you know of others of the so-called independents who have during the period referred to obtained large contracts in competition with the American Bridge Company?

A. I know that to be a fact in a general way.

Q. Has the Phoenix, for instance, obtained a number?

A. Yes, sir; but I recall no unusually large contracts that they have taken.

Q. What unusually large contracts do you recall that independents other than yourselves have obtained?

A. I have in mind the approaches to the Hell Gate bridge here, which were taken by the McClintic-Marshall Construction Company, that being the largest contract that has been placed during the last year.

Q. The largest contract placed with anybody?

A. Practically so.

Q. They got that, and they have had a number of important contracts, have they not?

A. Yes, sir.

Q. For most all the important railroads, during the time we have mentioned, have they not?

A. I believe that is true in a general way.

Q. They are a very large and important concern, are they not?

A. Yes.

Q. Have they rolling mill affiliations?

A. No.

Q. Do you know what percentage of the business they have done during the past year?

A. Of their capacity?

Q. Of this large structural bridge work?

A. You referred to the percentage of their own capacity?

Q. Did I say capacity?

A. I believe so.

Q. I mean what percentage of the work that has been done of the kind that you have referred to, large bridge and structural work, they have obtained?

MR. DICKINSON: Who are they that you refer to?

MR. LINDABURY: McClintic-Marshall Construction Company.

A. I have no specific knowledge on it.

By MR. LINDABURY:

Q. They took the construction of the Panama locks, did they not?

A. Yes.

Q. Did you compete for that?

A. Yes.

Q. And the Bridge Company also competed, did they not?

A. Yes.

Q. And a number of others?

A. One other, the Riter-Conley Manufacturing Company.

Q. That is a large concern, is it not?

A. Yes.

Q. Have they rolling mill affiliations?

A. No.

Q. They have gotten some very large contracts nevertheless, have they not?

A. Yes.

Q. Your suggestion of an advantage possessed by the American Bridge Company on account of its rolling mill department does not apply to you, does it, for you have one, have you not?

A. Yes.

Q. The ones that have not rolling mill facilities are such as

the McClintic-Marshall Company and the Riter-Conley Company?

A. Yes.

Q. And they have prospered, have they not?

A. I think they have.

Q. Very greatly, have they not?

A. I am not informed as to the extent.

Q. You did not hear the testimony of their representatives here, evidently. You know of their having gotten some of the very large contracts in the country in open competition with yourselves, who have rolling mill facilities, and with the American Bridge Company, who have rolling mill facilities?

A. Yes.

Q. Who other of the present day structural people have rolling mill facilities?

A. The Phoenix Iron Company.

Q. Yes; any others?

A. Jones & Laughlin Steel Company.

Q. Yes.

A. The Cambria Steel Company and the Eastern Steel Company and Bethlehem Steel Company.

Q. They are all engaged in structural work, are they not?

A. Yes.

Q. And have rolling mill facilities?

A. Yes.

Q. Who of the important present day competitors for structural work have not rolling mill facilities? You have named two of them, but in your list repeat their names.

A. Riter-Conley, McClintic-Marshall, Wisconsin Bridge Company, New England Structural, Fort Pitt, Chicago Bridge & Iron Works, Virginia Bridge & Iron Company, Boston Bridge Works, Canton Bridge Company, Noelke-Richard Iron Works, King Bridge Company, Lackawanna Bridge Company, L. F. Shoemaker & Company, Toledo Bridge & Crane Company, Minneapolis Steel & Machinery Company, Riverside Bridge Company, Milwaukee Bridge Company, Omaha Structural Steel Works, Modern Steel Structural Company, Kansas Structural Steel Company,

Levering and Garrigues, Worden-Allen Company. There are possibly a few others.

Q. Those are all important and successful concerns, are they not, that you have just named?

A. All of more or less importance.

Q. I asked for the important ones and the successful ones. If there are any of those that are not important and successful, name them, will you?

MR. DICKINSON: I do not think you asked for successful ones.

MR. LINDABURY: Well, if there are any of those that are not important and successful in this competitive business—

MR. DICKINSON: I think the witness might have a hesitation in speaking of his competitors being unsuccessful.

MR. LINDABURY: Let him hesitate, and not you. This is his concern and not yours.

A. I think I would have to refer that to Bradstreet's or some other mercantile agency.

MR. LINDABURY: I asked for the important, and I think I said successful concerns.

MR. DICKINSON: Suppose you ask for the larger ones.

MR. SEVERANCE: You said important, but I do not think you said successful.

MR. LINDABURY: I thought I said successful.

THE WITNESS: I have given you the membership of the Bridge Builders' Society.

By MR. LINDABURY:

Q. That is a successful association, is it not?

A. I hope so.

Q. How many concerns are there in that?

A. There are twenty-seven.

Q. Many of those concerns I think were not in business when the bridge company was formed, were they?

A. Some were not.

Q. Tell us those of them that have started up since. By started up, I mean have begun this business of structural

work since. Give this from memory if you have not your list with you.

MR. SEVERANCE: He has the list.

By MR. LINDABURY:

Q. Oh, you have the list. All right. I prefer that you be accurate.

A. What time do you refer to now?

Q. Since the American Bridge Company was formed in 1900.

A. The Canton Bridge Company, Noelke-Richard Iron Works in their present form was organized since that time, although they had a small shop under a previous organization at the time of the formation of the American Bridge Company; the Lackawanna Bridge Company was formed subsequently; L. F. Shoemaker Company were brokers at the time the American Bridge Company was formed, but since that time they have built a shop.

Q. Brokers in what?

A. Structural material. The Toledo Bridge & Crane Company was subsequently formed; Minneapolis Steel & Machinery Company I think was formed since. The fabricating plant of the Cambria Steel Company I think was formed since. The Levering & Garrigues Company built their shop since the formation, and the Worden-Allen Company was formed subsequently.

Q. When was the McClintic-Marshall Company formed?

A. I believe they were formed just prior to the organization of the American Bridge Company.

Q. How does the total tonnage produced by the independents to-day compare with that produced by the independents at the time the American Company was formed?

A. I think the tonnage fabricated by independents has increased relatively.

Q. I do not mean relatively.

A. I thought that was what you asked me.

Q. I will want to ask you about that, probably, but I mean how does the amount they produce now compare with the

amount the independents produced when the American Bridge Company was formed?

A. It is larger at the present time.

Q. It has doubled, has it not?

A. Yes, sir; I should say it had perhaps a little more than doubled.

Q. More than doubled. Of the concerns that were in the business when the American Bridge Company was formed and remained independent, you name Jones & Laughlin, yourself and a number of others, 37 in all, have they increased their tonnage generally?

A. Yes.

Q. I take it from your testimony that those fabricators who did not have rolling mills have always been able to get steel for fabrication?

A. Yes.

Q. From how many different concerns could such steel be purchased during the period since the Bridge Company was formed?

A. I should say about seven.

Q. Name them.

A. Jones & Laughlin, Phoenix, Pennsylvania Steel Company, Cambria, the Republic, Lackawanna, and the Eastern.

Q. What about Bethlehem?

A. Did I not mention Bethlehem?

Q. No.

A. That is a small oversight.

Q How many does that make?

A. Eight.

Q. The other are all prosperous and important concerns, are they not?

A. As far as I know.

Q. And they generally, speaking of them as a whole, have a capacity beyond their production, have they not?

A. That would depend upon the state of the business.

Q. There have been times in the history of this country, I suppose, when they were running full?

A. Yes.

Q. But more than half the time they have not all of them run full, have they?

A. I can say that at times they have not run full.

Q. You could say that of the Pennsylvania Steel Company, could you not?

A. Without doubt.

Q. So that there never has been any difficulty, I mean among the fabricators who did not possess rolling mills, in getting the material they needed for fabrication?

A. No.

Q. Pennsylvania has always been ready to supply such demands as it has had, has it not?

A. We have very little of that character of products for sale ourselves.

Q. Are you not able to produce and sell what you have a demand for?

A. Yes.

Q. You spoke of the advantage obtained by having rolling mill affiliations. I suppose that there is advantage in having affiliations or ownership all along the line, from the production of the ore to the erection of the building is there not?

A. Yes.

Q. That is what we have come to call in this case integration?

A. I have heard of it.

Q. What do you understand that to mean in your business?

A. I presume that integration represents the process of collecting under one management the manufacture of any one product from the original raw material to the ultimate finished product, and also the combination of various units similarly situated into one group.

Q. Has that development in the steel business in later days assumed importance?

A. I should say so.

Q. Why, and on what account has that become important, as I take it from your testimony it has, in these later days?

A. It has become important owing to a growing appreciation of the fact that any one, any concern not controlling its raw material would be placed at a disadvantage, particularly so perhaps in times of keen competition.

Q. I think you said your company has done more or less of a foreign business?

A. Yes. Not to a large extent, but from time to time.

Q. In the prosecution of a foreign steel business, is the integration of the plant of account?

A. It is.

Q. Why?

A. Any condition that strengthens the ability of any concern to compete would naturally be of help in the export business.

Q. I suppose you need all the strength you can get in the export business, do you not?

A. There is no doubt of it.

Q. When did this system of integration first take hold of the steel business?

A. I am not an expert on that subject, but I think it was in the late Nineties or about the middle Nineties that the tendency has developed.

Q. And what led to it; what were the conditions of the business or the country or the industry that produced it?

A. The steel business, as a whole, was in a very critical condition in the early Nineties, to such an extent that I presume as a matter of self-preservation integration was resorted to.

Q. It having been resorted to, to what extent was it pursued? I mean, by how many or how few, as well as how far they carried it?

A. It was pursued starting in with the integration of a series of units as a rule representing some particular line of products, and as a subsequent development these several units were formed into a larger unit, covering practically the entire field of steel production.

Q. When did your company begin that process?

A. I do not think it has started it as yet.

Q. You own several units do you not—manufacturing processes?

A. Yes, but they were not acquired in the line of integration but as a natural development.

Q. You mean developing and acquiring the same results as by putting independent units together?

A. It is not the same thing. For instance, if a concern devotes its surplus earnings to the building of an additional

department or plant, I assume that is not what you refer to as integration.

Q. You are referring to integration, however, as putting together what were formerly units.

A. Yes, sir. That is my idea.

Q. Do you own any ore lands—your company I mean?

A. Yes.

Q. Acquired for what purpose?

A. In order to be in a position to control our source of raw materials in the manufacture of pig iron.

Q. Do you not regard that as a step toward integration?

A. I would regard that as a natural development of business.

Q. We will call it natural development of business, if you prefer that to integration. In the natural development of business, have the steel manufacturers, quite generally, where they can afford it, acquired their coal lands?

A. Yes, sir.

Q. When did that practice begin?

A. That practice, I should say, began 25 years ago at least.

Q. Who started that?

A. The Carnegie Steel Company, I presume.

Q. You say you presume?

A. I would prefer to say that I do not know.

Q. Can you presume that most anything on that line was started by Mr. Carnegie?

A. He was usually starting something.

Q. He was generally starting something; that is so, is it not?

A. Yes.

Q. This process of natural development or integration or combining together what were formerly independent units to make a connected and useful whole, has been adopted by all the larger steel manufacturers more or less, has it not.

A. Yes.

Q. And I take it from what you say it was a growth in its later and more important stages of the late Nineties?

A. Yes.

Q. That is, there was a special impetus during that period of time in that direction?

A. Yes.

Q. You have finishing mills, your structural mills are finishing mills?

A. Yes.

Q. That is a step in the line of integration or natural development, is it not?

A. We had our finishing mills before the time that this period of integration, so called, was inaugurated.

Q. What did you begin with? I have no doubt you led in some things and did not leave it all to Mr. Carnegie. What did you begin with?

A. Our original important product was the manufacture of rails.

Q. When did you take on structural mills?

A. The finishing mills that you refer to were built about thirty years ago.

Q. You specialized, to use your own term, I take it, in rails and large structural materials?

A. Yes.

Q. Your company is closely affiliated with the Pennsylvania Railroad, is it not?

A. Yes.

Q. I suppose it has always had an eye to supplying the needs of that company in rails and structural material?

A. The relation of the Pennsylvania Steel Company to the Pennsylvania Railroad, as far as its commercial questions are concerned, is entirely on the same basis as any other manufacturer of steel products.

Q. I quite understand that.

A. We are, as a rule, a competitor with the others.

Q. And you do not always get the work?

A. We do not always get the work.

Q. I know, but I thought that it was because of your relations to that railroad possibly that you had always gone quite largely on structural work and rails?

A. I think the policy had no particular reference to that circumstance.

Q. What other finishing mills have you besides structural mills?

A. We manufacture billets and blooms very largely of

special analysis and for special purposes, that is, a higher grade than is ordinarily produced in steel works.

Q. You do not make tubes?

A. No.

Q. Sheet?

A. No.

Q. Nevertheless, your product is considerably diversified, I take it?

A. Yes.

Q. Of the thirty-seven concerns which were not taken over by the Bridge Company when it was formed a number besides your own were important in the structural business, were they not?

A. Yes.

Q. Jones & Laughlin?

A. Yes.

Q. The Phoenix?

A. Yes.

Q. Several others?

A. Yes.

Q. What percentage of the total production in bridge and structural work did the bridge company do at the time it was formed? Judge Dickinson had some fine figures connected with rolling mills and one thing and another, and consequently I would like to have included a whole lot that he thought was beneath his notice or your notice. I do not want that. I want to know what percentage of the total production or the total production or productive capacity—— I do not remember which way you gave it——

THE WITNESS: Capacity.

Q. (Continuing.) What percentage of the total productive capacity of the United States in bridge and structural work the American Bridge Company possessed at the time of its formation?

A. Slightly in excess of forty per cent.

Q. Are you pretty sure about that; have you examined the figures so as to satisfy yourself of the accuracy of your statement?

A. You will appreciate that in the absence of general sta-

tistics all these figures must be to some extent a matter of judgment.

Q. Yes.

A. And this is my best judgment that I am giving, in all cases.

Q. I have no doubt about that, and I want to see how much we can rely on it; that is, how nearly accurate you yourself think your estimate is. I am not questioning your intention to give it as accurately as you can, but if it is based on published statistics that would be one thing, and if it is based on a general estimate arising out of your familiarity with the business then we would know how to regard that. So I want to see what basis you have for your estimate?

MR. DICKINSON: You mean this estimate of 40 per cent?

MR. COLTON: In excess of forty per cent.

MR. DICKINSON: I understand. Is that what you mean?

MR. LINDABURY: Yes.

A. I assume that the capacity of the plants which entered into the American Bridge Company, including the Detroit and Koken Iron Works, and one plant which was connected with the Illinois Steel Company, represented an output of close to 500,000 tons.

By MR. LINDABURY:

Q. You say you assume that. Is that what you say?

A. That is my opinion.

Q. What do you base it on?

A. Do you want the individual capacities, as I figure them?

Q. No; I do not want that detail, but only an explanation of how you got at the capacity of the several concerns. You did not visit them, I suppose?

A. No; although I have seen the most important plants in the country.

Q. Exactly; but you have not the data that came from a personal inspection and notation of what they had?

A. No.

Q. What did you have to base it on? That is what I would like to know?

A. I had the familiarity that comes from being in constant touch with the business. I was in very close touch with the bridge and structural business for ten years at least preceding the formation of the American Bridge Company, and in the course of carrying on the business I naturally formed an opinion as to the capacity of each of the plants which went into the American Bridge Company.

Q. Very well.

A. I simply applied what facts I was able to gather from time to time as reports came to my notice.

Q. Did you record those reports? That is what I am getting at. Have you any data or memorandum or book, or anything in which you have from time to time undertaken to set down the capacities of these different plants as you were informed about them?

A. Not in that specific way.

Q. So it simply remains in your memory in a general way, does it?

A. Yes.

Q. And in this estimate of upwards of 40 per cent——

MR. DICKINSON: He said in excess of forty.

MR. LINDABURY: That is upwards of forty, is it not?

MR. DICKINSON: Yes.

MR. LINDABURY: Slightly in excess.

MR. DICKINSON: I do not think he said slightly in excess.

By MR. LINDABURY:

Q. Was it slightly in excess of forty that you said?

A. Yes.

Q. What does that mean—forty-one or forty-two per cent?

A. About forty-two per cent, I should say.

Q. You included in that some plants afterwards acquired by the Steel Corporation, that did not go into the Bridge Company direct, did you not? You mentioned some plant owned by the Illinois Steel Company, did you not?

A. The Koken Iron Works, the Detroit Bridge & Iron Works, and the North Works of the Illinois Steel Company.

Q. Those were afterwards acquired by the Steel Corporation itself?

A. Yes.

Q. But did not go into the Bridge Company at the time of its formation, and they did not go into the Bridge Company afterwards, did they?

A. As to the details of that, I am not informed.

Q. You do not remember?

A. No.

Q. I only ask the question for the purpose of analyzing your testimony. Do you know if you took those out how that would leave the percentage of the Bridge Company plants?

A. I should place the percentage of those two cases respectively as 43 per cent and 41 per cent.

Q. That is, it would take off about two per cent if you left those out?

A. Yes.

Q. You gave a list of sixty here, thirty-seven of which remained outside, and the balance of which went into the American Bridge Company, and then you had another list of of concerns that were in the bridge or structural business, but whose competition was small or local, or not direct with your concern, as I understood you?

A. Yes.

Q. Is that about right?

A. That is right.

Q. Do you know whether any of them have developed since then a larger capacity than existed at the time the Bridge Company was formed?

A. I will run through them if you will allow me.

Q. I want a general answer, so that you need not take any special pains with that.

A. None of them ever developed to an extent that I would now consider them to be competitors

Q. With you?

A. With ourselves.

Q. I take it that from your testimony you confined your structural work to large bridges and large structures. Am I right?

A. Yes.

Q. Do you know whether the American Bridge Company did that? Have they not always a more extensive class of

work, consisting, in some of their departments, or works, of smaller bridges or smaller structures than you have referred to?

A. They do to some extent, although they are not very evident in the competition for very light highway bridges. That is the character of work that I am excluding.

Q. Were they in at the start?

A. Yes.

Q. These outside concerns?

MR. DICKINSON: What do you mean by "in the start"?

MR. LINDABURY: They did take a very considerable amount of the highway bridge work after their formation. That is what I mean.

THE WITNESS: That is correct.

By MR. LINDABURY:

Q. They took in a number of highway bridge companies, did they not?

A. Yes, sir.

Q. Were all of those highway bridge companies that they took in competitors of yours?

A. No, I should not call them so.

Q. They took in a great many small companies of the class you have mentioned as non-competitors with you, did they not?

A. Yes.

Q. And were not many of these concerns on your third list which you would denote local competitors in their respective localities with some of the concerns which the Bridge Company took in?

A. That is possible.

Q. It is probable, is it not?

A. The list, as I have made it out, is a list of concerns that I hardly think they would come in contact with, with the possible exception of these five or six plants that were strictly highway concerns, and which I think are now practically abandoned.

Q. Those five or six highway concerns would naturally

compete with these others in their respective localities, would they not?

A. Yes, I think they would in some instances.

Q. The American Bridge Company changed its line of business in that respect, after some experience, I take it, from what you say?

A. That is my impression.

Q. They began taking these small highway bridges and did that work for a while, and then gave it up?

A. That is my recollection.

Q. You never found that a very desirable or profitable line of work, did you?

A. It was not the line that we built our works to fabricate, no.

Q. You could have gone into it if you wanted to, could you not?

A. Yes.

Q. And you never thought it desirable?

A. But we cannot build two classes of work in the same shop; that is, the tools of a concern would have to be built to do that.

Q. Perhaps not, but the American Bridge Company was able to do that if they saw fit, and they carried on that kind of work for a while and then abandond it, did they not?

A. That is my best information.

Q. And about how many years did they continue in that class of work—just roughly speaking?

A. I should say three or four years.

Q. And I suppose the abandonment of that line of work was gradual. They did not suddenly abandon it, did they?

A. I suppose not.

Q. It was in that connection that some of these works that you have mentioned were abandoned, were they not?

A. Yes.

Q. Those works were constructed to do this particular class of work, I take it.

A. Some of them.

Q. You have spoken of some of these abandoned works, and I remember your mentioning the Koken Iron Works of

St. Louis, Missouri. Are you not mistaken in saying that that was ever abandoned?

A. That is merely the information that I have, although I have an impression that some of these plants may be used possibly as distributing points for the local market.

Q. Instead of being abandoned has not the Koken Iron Works been developed, and is it not a flourishing concern now?

A. As I stated, I am giving you this information simply as being in accordance with the records that I have.

Q. You might be mistaken?

A. Oh, yes.

Q. I think you have spoken of some plant in New York State, Elmira, was it not—

A. It has been mentioned.

Q. As being abandoned, I mean?

A. Oh, no.

Q. I think you mentioned some plant in that neighborhood. You mentioned Horseheads. That is up there somewhere, is it not?

A. In Central New York.

Q. It is in Elmira, is it not?

A. Yes; I think it is a suburb of Elmira.

Q. While that has been abandoned, is not the Elmira Works larger than ever, has it not been greatly enlarged and developed?

A. I have assumed that to be the case, and I have increased the tonnage of the Elmira plant in my estimates, in a comparison of the output of 1900 and 1912.

Q. And when was the Horseheads plant abandoned, so far as you recollect?

A. I could not remember near enough to tell you with any certainty.

Q. After some years of operation?

A. Yes.

Q. And the business transferred to Elmira, and that very greatly developed?

A. Yes.

MR. DICKINSON: I do not think he said it was transferred.

THE WITNESS: As to the transfer, I am not informed, but

I do know that the Elmira plant's work has not been going backward.

By Mr. LINDABURY:

Q. It does the character of work that the Horseheads plant formerly did, does it not?

A. I do not think it does the character of work that the Horseheads plant did, but a certain amount of this light highway work, which I do not think is being made at Elmira, at present.

Q. The bridge company, after its experience, has given that up, generally, from what you say?

A. I only judge that is the case from what I see. Their policy seems to be to that effect.

Q. Not only their policy, but their practice?

A. Yes. The practice seems to be that way.

Q. I understood you to say so a while ago. There is very much more work done now at the Elmira shops than there was formerly both there and at the Horseheads works, is there not?

A. Yes.

Q. And this matter of abandoning the Horseheads plant and developing the Elmira plant is one of those things that ordinarily goes on in a manufacturing concern, is it not?

A. I should regard that as a legitimate policy to pursue.

Q. That is what I mean. There was nothing suspicious or surprising about it, was there?

A. No.

Q. Nothing unusual about it, was there?

A. No.

Q. Take the middle west. Some plants have been abandoned out there. I think you have mentioned some, have you not?

A. Yes.

Q. But there has been a very large and important plant constructed in the Middle West, has there not?

A. Yes.

Q. What is that?

A. The Gary plant. Do you refer to that?

Q. Yes. That is the largest in the country, is it not?

A. No.

Q. What larger one is there?

A. The Ambridge plant of the American Bridge Company.

Q. I forget Pittsburg for the moment. If you leave Pittsburg out the Gary plant is the largest, is it not?

A. Yes.

Q. When was that begun?

A. To the best of my recollection it was begun two or three years ago.

Q. It is finished now, is it not?

A. Substantially so.

Q. Substantially finished?

A. Yes.

Q. Taking that into account, is not the productive capacity of the plants owned by the Steel Corporation in the Middle West, notwithstanding the abandonment you refer to, very much greater than it was when the Steel Corporation was formed?

A. Undoubtedly.

Q. What Middle West plants were abandoned?

MR. DICKINSON: What do you mean by the Middle West? He has not defined that and has not used that expression.

MR. LINDABURY: He knows.

MR. DICKINSON: I would like to know what he means by it.

MR. LINDABURY: I will make that the next question as soon as he answers.

A. There was one plant abandoned in Milwaukee.

By MR. LINDABURY:

Q. Where was that?

A. If I am mistaken I would be glad to be informed and I will correct my records. The J. G. Wagner plant.

Q. When was that abandoned?

A. I could not tell you.

Q. It burned down, did it not, accidentally?

A. I hope so.

Q. Do you not know when the fire was?

A. It was not the next week after.

Q. You do not know?

A. No; I do not know.

Q. You know it is a fact, do you not?

A. Yes.

Q. So much for that. Now, any other Middle West plants that were abandoned?

A. The Lafayette plant.

Q. I am going to ask you to tell what you understand by the Middle West when you finish this.

MR. DICKINSON: It will be satisfactory if he gives the names of the places.

A. And I should include Columbus, Ohio. That would be three plants altogether, as far as I can tell.

By MR. LINDABURY:

Q. The second one I did not get?

A. New Columbus and Lafayette.

Q. Where is Lafayette, Indiana?

A. Yes.

Q. When was that abandoned?

A. I am not able to tell you.

Q. Do you know why it was abandoned?

A. No.

Q. Was there anything about the abandonment out of the ordinary?

A. I do not know.

Q. As far as you know it was a highway plant, was it not?

A. Yes.

Q. You would not think the abandonment of that, under the circumstances you have mentioned especially remarkable, would you?

A. No.

Q. How about Columbus?

A. My information is the New Columbus plant is shut down. That was also more or less of a highway concern.

Q. Now, we have two highway concerns and one fire in the Middle West. Where are the others you mentioned?

Did you mention any other plants than those I called your attention to, New York and the Middle West?

A. I called attention to the fact that Pittsburg plants were abandoned.

Q. But you said they were abandoned and supplemented by another group of double the capacity?

A. I mentioned that in my original testimony.

Q. That is what I mean.

A. Yes.

Q. There was nothing surprising about that, was there? I mean that was ordinary business development?

A. Yes; but no mention has been made of certain others that were in the Middle West and the Pittsburg District.

Q. Do you mean not mentioned by me in my questions to you?

A. I understood you to ask just before the last question whether there were any others.

Q. I meant to, yes. I asked it because I did not carry in my mind what you had mentioned in your direct?

A. The Union Bridge Company plant.

Q. Where was that?

A. At Athens, Pennsylvania.

Q. When was that abandoned?

A. I should say that would be about five years after the formation of the American Bridge Company.

Q. Operated for five years?

A. I judge so.

Q. That is right near Elmira, is it not?

A. Yes.

Q. The transfer of the business done there to the Elmira plant would not be unnatural, would it?

A. No.

Q. The next plant. I want you to give them all. I cannot guide you otherwise than to ask you to go on.

A. The other was Berlin.

Q. Where was that, Connecticut?

A. Yes, sir; East Berlin, Connecticut.

Q. That was a highway bridge plant?

A. Yes, although they did some other work. They did work for the New Haven Road from time to time and other

New England railroads, but it was to a large extent a shop, manufacturing buildings, and some highway bridge work.

Q. You do not know, I suppose, what the reasons were for giving that up, do you?

A. No.

Q. Any more?

A. The Groton Bridge Company was abandoned, which was also a highway concern.

Q. Yes.

A. And the Hilton Bridge & Construction Company I think would be classed in the same way.

Q. As a highway plant?

A. Yes; likewise the Rochester Bridge & Iron Works.

Q. Yes.

A. And the Buffalo Bridge & Iron Works was one that was engaged I think more particularly in the construction of buildings.

Q. Of buildings?

A. Yes.

Q. Do you know why that was abandoned?

A. No.

Q. That is in what might be called the Elmira District, is it not?

A. I would hardly go that far.

Q. It is a little far?

A. It is about two or three hundred miles, I should judge.

Q. Elmira to Buffalo is? Maybe it is; I do not know. I suppose you do not know why it was abandoned?

A. No.

Q. Any other?

A. That is all.

Q. Were the structural plants you referred to as not possessing rolling mill facilities generally located with some reference to the source of supply?

A. Not in all instances.

Q. No; I mean generally. I was wondering if it would not be necessary, or at least important to locate a structural plant somewhere within easy reach of its source of supply?

A. Economically speaking fabricating plants would be located either at the source of the raw material supply, or

at the destination of the product. In other words, where the local market exists. Any other condition would involve the payment of two freight rates.

Q. I suppose when the Steel Corporation was formed it had its own supply of material for the structural mills of the American Bridge Company, did it not?

A. Yes.

Q. Many of the structural mills, or some of the structural mills taken over by the Bridge Company I suppose did not have rolling mills?

A. Yes.

Q. Some of the fabricating shops did not have rolling mills?

A. Yes.

Q. Their location, however, with respect to their own and independent sources of supply, I suppose, became comparatively unimportant after the Steel Corporation was formed and relations with that were established?

A. Yes.

Q. With regard to these so-called independents whose capacity has remained stationary or increased, what about the Worden-Allen Company. Has their capacity been increased?

A. The Worden-Allen Company was formed, I remember, subsequent to the organization of the American Bridge Company.

Q. And has their capacity been increased since it started?

A. Yes.

Q. Largely, has it not?

A. Yes.

Q. Do you know a concern named the Modern Steel Structural Company?

A. Yes.

Q. Where is that located?

A. I think it is in Milwaukee.

Q. Waukesha, is it not?

A. Yes; it is in that district.

Q. Was it in existence when the American Bridge Company was formed?

A. I think not.

Q. When was it formed?

A. Subsequently, but I would not be able to tell you when.

Q. It has largely developed since it started, has it not?

A. I should say moderately developed.

Q. McClintic-Marshall you have already said has developed?

A. Yes.

Q. And the Riter-Conley Company, both of those have much increased in size?

A. I think the Riter-Conley Company has not developed in the same proportion as some of the others, because they were already a large concern in 1900.

Q. They have developed, have they not? They are larger than they were then?

A. Yes; I should think so.

Q. Riter-Conley have built a new plant, have they not?

A. Yes.

Q. Lately?

A. Yes.

Q. Of what capacity, approximately? I do not care for close figures.

A. I should say about 40,000 tons a year.

Q. What about the Fort Pitt concern?

A. That has developed.

Q. Where is that?

A. That is in the Pittsburg District.

Q. Was that in existence when the American Bridge Company was formed?

A. Yes.

Q. Has it largely developed since then?

A. I think it has developed quite largely.

Q. What about the Virginia Bridge & Iron Company?

A. That has developed quite largely.

Q. It has two plants, has it not?

A. I think it acquired one plant and built one, as I recollect.

Q. One at Atlanta, Georgia?

A. Yes.

Q. And one at Memphis, Tennesee?

A. Yes, sir.

Q. Judge Dickinson's district?

A. Yes.

Q. That is flourishing, I hope?

A. I hope so.

Q. I do not mean the district, but the plant.

A. Yes, I think so.

MR. DICKINSON: I never heard of the plant.

MR. LINDABURY: That is the reason I am giving you the information.

By MR. LINDABURY:

Q. The plant they acquired they closed down, did they not? You spoke of their acquiring one and building another. Did not they acquire one at Wilmington, North Carolina, and close it and build the Memphis or Atlanta plant new?

A. I could not say as to that.

Q. In other words are not the Atlanta and Memphis plants both new and built in substitution for the abandoned one at Wilmington, North Carolina?

A. I am not informed as to that.

Q. I am disappointed, because I was getting the notion you had very extensive information. Where is the Hay Foundry?

A. They are located in the New York District.

Q. New Jersey, is it not?

A. Yes.

Q. That is a new plant?

A. Yes.

Q. And it is a very prosperous concern, is it not?

A. I do not know about the prosperity, but they do a large business. Of course doing a large tonnage does not always go with large profits.

Q. It has much developed since 1900, has it not?

A. Yes.

Q. What about Levering & Garrigues? They have a new plant, have they not?

A. Yes, sir.

Q. Where are they located?

A. Somewhere in New Jersey.

Q. Plainfield, New Jersey?

A. Yes.

Q. Jones & Laughlin, they have a new plant, have they not?

A. Yes.

Q. How old is that?

A. Their new plant, I should say, is about three years old.

Q. How much have they developed since 1900 in their respective capacities for this class of material?

A. I should say they have increased their fabricating capacity perhaps three times.

Q. Cambria, how much have they increased their fabricating capacity since 1900?

A. They did not fabricate in 1900. They developed that business since in connection with their rolling mills.

Q. Then they have developed it several hundred per cent I suppose? Well, they have developed a large business, have they not?

A. Yes; they built a structural plant in connection with their rolling mills which existed in 1900.

Q. That was a process of integration or natural development?

A. Natural development.

Q. What about the Eastern Bridge & Structural Company?

A. They have developed largely.

Q. This seems to have been a general process of development, natural or otherwise?

A. The entire country developed.

Q. And they have developed with it?

A. Yes.

Q. What about the Berlin Construction Company?

A. That is a concern that was formed since the organization of the American Bridge Company.

Q. What percentage—I think Judge Dickinson did not ask you that, and I came near forgetting it—what percentage of structural material in capacity does the Bridge Company now possess?

A. I think it possesses at the present time about thirty per cent of the total capacity of the country.

Q. Of the United States?

A. A little over thirty per cent.

Q. Is it between thirty and thirty-one per cent?

A. I would put it at 31 per cent if I were to put it.

Q. And how much increase in the productive capacity of the United States in structural material has there been during the last twelve years, or since 1900?

A. I think the demand has increased about 100 per cent.

Q. That is consumption of production, and I am glad to have it, but I ask about productive capacity. Has that increased about the same? How much has that increased?

A. I think that the productive capacity has increased more rapidly than the demand.

Q. And the demand has increased about 100 per cent?

A. Yes.

Q. There are statistics, are there not, published on this subject of productive capacity now?

A. Do you refer to the book published by the Iron & Steel Association?

Q. I do not know, but there are statistics published on the subject, are there not?

A. As far as capacities are concerned, I think you could hardly call those statistics. They are more in the nature of guesses.

Q. The Government has been using that book here, and we wanted to know whether it was a guess or whether it was reliable.

MR. DICKINSON: You have been using it, too. Put that in at the same time, won't you?

MR. LINDABURY: You started it. You introduced it. You asked us to join you in establishing it

By MR. LINDABURY:

Q. What is the publication of a statistical character covering this subject? What do you call it?

A. The year book of the American Iron & Steel Association, or something like that.

Q. Perhaps so. You are familiar with it, are you not?

A. Yes, sir.

Q. You say that it consists of a series of guesses?

A. I would not say they are guesses, because, as a rule, they are given by the people themselves; but it consists, I should say, of exaggerated statements of capacities.

Q. Something like the biographies in our legislative manuals? That is all.

REDIRECT EXAMINATION,

By Mr. Dickinson:

Q. You say these publications are made from statements sent in by the parties as to their own capacities, and you think they are rather in the nature of a sort of advertising matter? Is that it?

A. Yes.

Q. And you do not regard them as accurate?

A. No.

Q. You were asked what per cent of material is now represented by the capacity of the Bridge Company, and you stated 31 per cent. What do you include in that entire total? Do you include all of these small fabricators with whom you say there is no competition?

A. Yes, sir.

Q. You were asked about the increase in capacity of various plants since the American Bridge Company was formed. I will ask you: Is it not a fact that there has been a large increase in the commercial demands of the country in every way, since that?

A. Undoubtedly.

Mr. Lindabury: He did not say that.

Mr. Dickinson: I am asking him if he does.

Mr. Lindabury: I ask to have the preceding question read, now.

(The stenographer read the preceding question, as follows:)

"Q. You were asked what per cent of material is now represented by the capacity of the Bridge Company, and you stated 31 per cent. What do you include in that entire total? Do you include all of these small fabricators with whom you say there is no competition?"

MR. LINDABURY: You are misreciting his previous answer.

MR. DICKINSON: I am not misreciting anything.

MR. LINDABURY: You certainly are, Judge. I do not mean to say that you are doing it intentionally.

MR. DICKINSON: I have not recited anything. I am asking him a question, and I do not think it is right to say that I am misreciting anything, when I am not reciting anything. I am asking for information.

MR. LINDABURY: But you are, Judge.

MR. DICKINSON: What have I recited?

MR. LINDABURY: You are reciting that he stated there was no competition with those small fabricators.

MR. DICKINSON: I am asking what he includes. I have made no recital.

MR. LINDABURY: But I insist that you have, Judge.

MR. DICKINSON: I do not propose to have it said that I am misreciting anything.

MR. LINDABURY: I do not mean to say that you did it with any improper intent.

(By request the stenographer repeated the question under discussion as follows:)

"Q. You were asked what per cent of material is now represented by the capacity of the Bridge Company, and you stated 31 per cent. What do you include in that entire total? Do you include all of these small fabricators with whom you you say there is no competition?"

MR. LINDABURY: That is a misrecital. He has not said it.

MR. DICKINSON: He had previously said it.

MR. LINDABURY: I say he had not. He said there was no competition with his company.

By MR. DICKINSON:

Q. Have you or not, in your previous examination, stated that, in the total estimate of fabricated material for the years 1911 and 1912, and about that time, there were a number of small builders of local highway bridges and small buildings with which your company and the larger companies with which you were in competition did not compete?

MR. LINDABURY: That is not what you asked him before.

MR. DICKINSON: That is what I intended to say.

MR. LINDABURY: But you did not say it, Judge.

(By request, the stenographer repeated the question, as follows:)

"Q. Have you or not, in your previous examination, stated that, in the total estimate of fabricated material for the years 1911 and 1912 and about that time, there were a number of small builders of local highway bridges and small buildings with which your company and the larger companies with which you were in competition did not compete?"

A. Yes.

Q. State whether or not as of the time that you gave the 31 per cent, the American Bridge Company was chiefly engaged in large tonnage work.

A. Yes.

Q. And state whether or not it has, to any considerable extent, engaged in competition with a large class of those producers that you have included in that 100 per cent.

MR. LINDABURY: I object. How could he know that?

MR. DICKINSON: You can ask him how he knows it.

MR. LINDABURY: If he does not compete with those, how can he know that the American Bridge Company does?

By MR. DICKINSON:

Q. Just answer the question.

A. It has not.

Q. State the reasons for your answer.

A. The list of small fabricators that has been referred to as being engaged largely in a small or local business, handles only contracts that are so small that, as far as my knowledge is concerned, neither the American Bridge Company nor any of the larger fabricators, as a rule, would attempt to compete for it.

Q. You were asked whether or not you had gotten work within the last year in competition with the American Bridge Company. I will ask you at what kind of prices you got that work, from the standpoint of profit and remuneration.

A. As a rule the work was taken at ruinously low figures.

Q. Why did you take it at ruinously low figures?

MR. LINDABURY: That is objected to as irrelevant and immaterial.

THE WITNESS: It frequently is more important to take work, even though it is not at a remunerative price, rather than to have the works shut down in whole or in part, owing to the necessity for taking care of the overhead charges.

By MR. DICKINSON:

Q. What has been the course pursued by the American Bridge Company, within the past year as contrasted with previous years, as to taking work up to its full capacity?

A. In my opinion——

MR. LINDABURY: I object to opinions. This is not a question for expert evidence. The witness could not possibly know the facts, and his opinions are not evidential and are not legal evidence.

(By request, the stenographer repeated the pending question, as follows:)

"Q. What has been the course pursued by the American Bridge Company within the last year, contrasted with previous years, as to taking work up to its full capacity?"

A. I can only judge from results.

By MR. DICKINSON:

Q. What are the results?

A. The American Bridge Company has taken a larger share of its capacity than the independent concerns have, in the aggregate.

Q. Has that been especially so within the last year or two?

A. Yes.

Q. Have or have not its bids been characterized as especially low within that time?

MR. LINDABURY: I object to that as leading.

MR. DICKINSON: I have a right to lead him.

MR. LINDABURY: You have not a right to lead him, at all.

MR. DICKINSON: I will lead him, and submit it to the court. You have brought that out. I did not go into that question. You made him your witness on that.

MR. LINDABURY: It is hearsay and opinion. It is contrary to every rule of evidence that I ever heard of. It is like only some of the allegations in the petition filed in this case.

MR. DICKINSON: Well, I am proving them right along.

MR. LINDABURY: What does the question mean? Characterized by whom? By the general public, the newspapers, the Government, or whom?

MR. DICKINSON: Characterized by their innate qualities. That is what I mean. Does the witness understand that?

THE WITNESS: Yes.

MR. DICKINSON: Answer the question, now, then.

(By request the stenographer repeated the question, as follows:)

"Have or have not its bids been characterized as especially low within that time?"

THE WITNESS: Yes.

By MR. DICKINSON:

Q. I will ask you whether or not, within the last year, the American Bridge Company has not been, as contrasted with previous years, making low bids against its competitors?

A. Yes.

Q. Has that or not been done generally uniformly?

MR. LINDABURY: I object to that as irrelevant and immaterial.

THE WITNESS: It has been the case during the period mentioned.

By MR. DICKINSON:

Q. Did you ever get any bridge work from the Atchinson, Topeka & Santa Fe Railway Company?

A. I think not.

Q. Did you get any from the Harriman Lines?

A. I think not.

Q. State whether or not the work of the Harriman Lines

is open to bids, or whether or not it has been uniformly taken by one concern?

MR. LINDABURY: I object. How can the witness know whether it is open to bids or not?

MR. DICKINSON: He can know whether they solicited bids or not.

MR. LINDABURY: Ask him that, then; whether they asked him to bid, instead of asking his opinion on the general state of the country.

THE WITNESS: We bid on work for the Harriman Lines, to the best of my recollection, about four years ago.

By MR. DICKINSON:

Q. And how about since that time?

A. I think we have not bid on it since.

Q. Have you been solicited to bid on it since?

A. I believe not.

Q. Who has done that work, for the most part, if you know?

A. The American Bridge Company.

Q. You spoke of those structural works connected with rolling mills and those not connected with rolling mills. I wish you would explain what are the advantages or disadvantages of those not connected with rolling mills when they compete with those that are connected with rolling mills, when competition is keen.

MR. LINDABURY: That is objected to as irrelevant.

THE WITNESS: The works not connected with rolling mills, as I stated before, purchase their raw materials in the open market and, as a rule, there is a certain price of raw material which is considered to be the lowest price. Works which have connections with rolling mills have the opportunity, if they see fit, to put in a price of the raw material to their own fabricating plants at a lower figure. It may also be contended, in some instances, that there is an advantage in prompt deliveries.

Q. You were asked whether or not there was an advantage also in having ores, and you stated that there was. How

about having ore and transportation, too? Is that an additional advantage?

A. Undoubtedly.

Q. You stated that in the early Nineties the critical condition of the steel business led to integration. What was the critical condition? What were the characteristics of that condition?

A. The characteristics of the business in the early Nineties were a light demand for steel products and a state of competition which made it practically impossible for most of those engaged in the steel business to show satisfactory earnings.

Q. I will ask you whether or not this did not lead to combinations, also, beside integration and beside development.

A. Combinations as distinct from what?

Q. Combinations of competing concerns in a larger holding company.

A. Yes.

Q. Had there been pools at that time and efforts to regulate prices by pools?

MR. LINDABURY: To what time are you referring, Judge?

MR. DICKINSON: Along in the early Nineties.

MR. LINDABURY: What do you mean by the early Nineties?

MR. DICKINSON: That is an expression that you used, as I understand——

MR. LINDABURY: All right. All right.

MR. DICKINSON: He said a critical condition of the steel business led to integration in the early Nineties, and I am asking whether or not there had also been a period of pools and the breaking of pools, and whether that was one of the characteristics of the condition.

THE WITNESS: What is the question?

(The stenographer repeated the question, as follows:)

"Q. Had there been pools at that time, and efforts to regulate prices by pools?"

THE WITNESS: I would like to know a little more about what you understand by pools.

By MR. DICKINSON:

Q. I mean an agreement of competitors by which they undertook to maintain prices.

A. Generally in the same line of business?

Q. In the same line of business.

A. I have no individual knowledge of such pools.

Q. What knowledge have you of the public history of the times, if you have any, as to that?

A. It was generally understood that there were pools in existence.

Q. And that they were broken from time to time?

A. Yes.

Q. Was that one of the conditions that made the business critical, that led to integration and combination?

MR. LINDABURY: I object to this putting words in the mouth of the witness.

MR. DICKINSON: I do not know anybody that has done more of that than you have.

MR. LINDABURY: You apparently are incapable of distinguishing between the rights of cross-examination——

MR. DICKINSON: I am bringing out matter that was referred to by you in cross-examination.

MR. LINDABURY: I did not bring anything out about pools.

MR. DICKINSON: Not about pools; but you brought out about the critical condition in the steel business, and I am asking what they were.

MR. LINDABURY: You are leading the witness along as if you had a perfect right to do anything you please. I propose to stand up for our rights here.

MR. DICKINSON: I certainly would not infringe upon your rights if I thought I was doing it. I think I am clearly within my rights, or I would not do what I am doing.

MR. LINDABURY: You have practiced law long enough to know that you have not a right to put words in the mouth of your own witness.

MR. DICKINSON: I do not want any personal criticism here. I am perfectly willing to have exceptions entered.

MR. LINDABURY: I do not believe in taking advantage of

the fact that we have no judge here to rule on the evidence.

THE WITNESS: Shall I answer?

MR. DICKINSON: Yes.

THE WITNESS: I think it was generally recognized that any attempt to improve trade by means of pools led to unsatisfactory results.

By MR. DICKINSON:

Q. You distinguish between what you call development and integration. You were asked about your company, whether or not it had more or less developed or integrated. Was your company a combination of other companies, or did you increase your property and holdings?

A. I consider that our company had increased as the result of natural growth, and not by the combination of various units, except in so far as we may have bought ore properties here and there which were already in existence.

Q. Did you bring together a number of different companies that before, at any time, had been competing, and unite them under a holding company?

A. No, sir.

(Whereupon, at 12:30 o'clock p. m. a recess was taken until 2 o'clock p. m.)

AFTER RECESS.

At the expiration of the recess the hearing was resumed.

J. V. W. REYNDERS,

the witness under examination when the recess was taken, resumed the stand.

REDIRECT EXAMINATION (Continued).

THE WITNESS: May I make one correction in my figures this morning?

MR. DICKINSON: Yes.

THE WITNESS: I stated in my estimate of the percentage

of the fabricated material made by concerns having rolling mill affiliations, that the percentage in 1912 was the same as the percentage in 1900; the percentage of the independents in each case being 15 to 20 per cent.

In making up my figure of 1912, I omitted one concern, so that the proper answer for 1912 would be 20 per cent in the case of the independents, and 80 per cent in the case of the American Bridge Company.

MR. LINDABURY: What was the other?

THE WITNESS: 15 to 20. That was the correct figure for 1900; and the correct figure on the same basis for 1912 would be 20 per cent.

MR. LINDABURY: Could you not give it closer than somewhere between 15 and 20 for 1900?

THE WITNESS: Let me see.

MR. LINDABURY: If you can give it exactly for 1900, a definite figure, we should then have some basis for comparison.

THE WITNESS: It seems to come out about 18 per cent. I think it is so near that there is no substantial difference between the two. It comes out 18 per cent.

MR. LINDABURY: A slight increase?

THE WITNESS: Yes.

By MR. DICKINSON:

Q. Was that for 1900 or for 1901 that you figure?

A. I would say that is immediately after the formation of the American Bridge Company.

MR. LINDABURY: One moment. If I understand, the independents having rolling mill affiliations manufactured 18 per cent in 1900 and 20 per cent in 1912?

THE WITNESS: Yes, sir.

By MR. DICKINSON:

Q. Mr. Reynders, you were asked about the increase of the capacity of the independents after the time of the formation of the American Bridge Company and down, say, to 1912. To what was that increase due besides the general increase

in demand on account of the growth of the country? State whether there were any special features entering into that.

A. Do you refer to the increase in the capacity of the independent manufacturers?

Q. Yes.

A. Those in the competitive class we have discussed?

Q. No; those in the non-competitive class, those in what we have referred to as the non-competitive class.

A. That increase, I think, was from 20 to 40 per cent in the two periods under discussion, as I remember it, and I think that increase is due to a large extent to the increased use of steel in miscellaneous building work. For instance, where alterations are made in a small property, involving a few beams or perhaps a new store front, or something that is so small in amount that it would almost of necessity be bought in the local market; that particular class of work has increased more in proportion than the general consumption of the country in the large work.

Q. While the individual cases, as you have explained, would be small, the aggregate would be considerable?

A. Yes.

Q. State whether or not your company and the larger companies which competed for large tonnage, such as large bridges and structural work, competed for that class of work.

A. I can answer that we did not compete for that class of work—the Pennsylvania Steel Company.

Q. Do you know, as a rule, whether the American Bridge Company does that class of work?

A. I am not informed as to that.

Q. You were asked about new fabricating plants that had been started up as entirely new concerns since the formation of the American Bridge Company. State whether you know of any fabricating plants, say of the tonnage capacity of 4,000 tons or over, that have started up within the last twelve months.

MR. LINDABURY: I object. That is during the period covered by this suit, and the fact of the suit is explanation enough why that has not been done.

MR. DICKINSON: I think you brought your inquiry down within that period, and that is why I am asking about it.

By Mr. Dickinson:

Q. I will ask you to take the year next preceding October 26, 1911. Were there any plants of a tonnage of over 4,000 capacity started during that period?

A. That is during the calendar year 1911?

Q. No; take the year from October 26, back, the preceding twelve months.

A. No; I do not think of any in that period.

Q. When was there established, within your knowledge, a new concern fabricating structural material of a tonnage that was large enough to compete with your company and the class of companies that you have competed with for bridge and structural work?

A. There is one instance that I recall, which is the plant of the Lackawanna Bridge Company, and that was formed, I should say, within three years.

Q. Within three years?

A. Within three or four years, yes.

Q. Please fix the time as near as you can.

A. I should say three years would be my recollection.

Q. Did or did not the Lackawanna Company make rolled material?

A. That is the Lackawanna Steel Company; but the Lackawanna Bridge Company has no connection with the Lackawanna Steel Company. They are both located in Buffalo but they have no direct connection.

Q. They have no affiliation at all?

A. I do not know certainly that they have.

Q. State where that bridge company gets its material.

A. They get raw material from the Lackawanna Steel Company.

RECROSS EXAMINATION.

By Mr. Lindabury:

Q. Mr. Reynders, would you say that the American Bridge Company did not compete with any of the concerns on your third list that has been referred to by Judge Dickinson as the non-competitive list?

A. No, sir; I could not say that.

Q. All you know is that your company has not competed?

A. Yes.

Q. With regard to the competition that your concern and the other members of the present bridge association have carried on with the Bridge Company, did I correctly understand you to say that your concern has been taking contracts at a loss?

A. No.

Q. Or that the other independents have?

A. No, sir, I could not answer as to that.

Q. I mean, you did not mean to say that?

A. No, I could not say that with regard to a subject of which I have no actual knowledge.

Q. I did not think you did say it, and I only wanted to clear up the doubt as to whether you had said that or not. Competition has been rather keen in bridge work for some years, I take it?

A. Yes, sir.

Q. How many years are covered by this period of keen competition that you have referred to?

A. I think it started about the month of August, 1910.

Q. Did it exist before that time?

A. Not in this acute degree.

Q. There has been competition for a number of years, has there not?

A. Yes.

Q. Active competition?

A. Yes.

Q. Real competition?

A. Undoubtedly.

Q. But it has grown since some time in 1910?

A. Yes. It has been very much more severe since that time.

Q. How has that severity manifested itself?

A. In a general lowering of the price levels.

Q. Has it manifested itself in any other way than this lowering of prices?

A. I should think that would be the final manifestation.

Q. Let us see about the ability of these independents to

take care of themselves. What is the capital of your company?

A. About $50,000,000.

Q. This is public knowledge, I suppose. I do not mean to ask you about anything that you would regard as a private affair. What is the capital of the Cambria?

A. I could not answer as to that.

Q. You have a surplus, I suppose, besides your capital?

A. Yes.

Q. Is that published?

A. I think not.

Q. Then I will not ask you about it. The Cambria has a large capitalization, has it not?

A. Yes.

Q. But you do not know how much?

A. No; but it is very substantial. I think it is somewhat larger than our own.

Q. And what about Jones & Laughlin?

A. I have not the figures in regard to that company.

Q. Their capitalization is large, is it not?

A. Yes.

Q. Their plant is very large, is it not?

A. Yes.

Q. Their capitalization approximates yours, does it not?

A. I could not say in regard to it. I prefer not to express myself.

Q. What about the Lackawanna, is that large?

A. That is large.

Q. Do you know how large?

A. No; I would say that all of those you have mentioned might reasonably be classed in the first class as independent concerns.

Q. How about Bethlehem? Is that in the first class too?

A. Yes.

Q. It is very large, is it not?

A. Yes.

Q. What do you call first class, something over 50,000,000?

A. Something in that neighborhood.

Q. These are none of them puling infants, are they?

A. I do not know what you mean by infants in the steel business.

Q. They are strong and well established and able to take care of themselves and stand on their own bottoms, all of them, are they not?

A. Yes, sir.

MR. LINDABURY: That is all.

(Witness excused.)

A. J. MOXHAM,

called as a witness on behalf of the United States, being first duly sworn, testified as follows:

DIRECT EXAMINATION,

By MR. DICKINSON:

Q. Mr. Moxham, where do you live?

A. Wilmington, Delaware.

Q. How long have you lived in Wilmington?

A. Since 1902.

Q. In what business are you engaged?

A. I am vice-president of the Dupont Powder Company.

Q. Please state whether or not in 1894 you had any connection with the Lorain Company, and, if so, what?

A. Yes; we had two companies there, of one of which I was president. That was the Johnson Company. When the Lorain Steel Company was organized I became the President of the Lorain Steel Company, resigning from the Johnson Company.

Q. And where was the Johnson Company situated?

A. At Lorain.

Q. Did it have a plant also at Johnstown, Pennsylvania?

A. Yes.

Q. State whether or not the rolling mill was added to the Johnson works, and, if so, when?

A. Well, we built a rolling mill at Johnstown, and according to my best recollection in 1886 or 1887 or 1888, some-

where thereabouts. My mind is not very clear as to the exact date.

Q. From whom did that company purchase its blooms?

A. From a number of different parties, principally from the Cambria Iron Company, as it was then.

Q. After the enlargement of the Johnstown plant, state what was manufactured there?

A. The rolling mill——

Q. Yes; their plant.

A. In the rolling mill we manufactured girder rails, special shapes. In the other department, which was what we called the switch works, we manufactured a number of specialties belonging to street railroad business. Street railroad business was practically all that we did at that time.

Q. It was largely engaged in manufacturing specialties for that, was it?

A. Yes.

Q. Who were the principal persons associated with you in the control of the Lorain Steel Company and the Johnson Steel Company?

A. In the Johnson Company originally there were three of us, who practically owned all of the stock, Tom L. Johnson, A. B. Dupont and myself. As we developed into the Lorain Steel Company our basis became very much enlarged, and we took in quite a large number of stockholders. I could scarcely give you more than a few of them from memory.

Q. What was built at the Lorain Steel Company in the way of a rail mill, if any?

A. The building was so continuous—shall I begin with the beginning as separate from the end?

Q. Prior to the time that the Lorain works were sold?

A. We had at that time two blast furnaces with all the appendages, such as unloading apparatus and ore docks and water works, and so on, one of which was about finished, and the other building. We had the Bessemer department wherein we made our steel.

Mr. Lindabury: You say at that time. Do you mean at the time of the sale.

Mr. Dickinson: Prior to the sale.

THE WITNESS: I understood at the time of the sale.

MR. DICKINSON: Just that time. The time just preceding it.

MR. LINDABURY: You mean the sale to the Federal Steel Company.

MR. DICKINSON: Yes; the time just preceding it.

THE WITNESS: We had the Bessemer department, two bloom mills and a rolling mill.

By MR. DICKINSON:

Q. Did you make girder rails?

A. Girder rails almost entirely. We made a few T-rails.

Q. Just before the sale to the Federal Steel Company, if there had been any mills built shortly before that, please state what they were, and what their capacity was, and what they were intended to produce, or what they were adapted for producing?

A. I do not understand the question, and I do not quite know where to draw the dividing line.

Q. Did you or did you not shortly before the sale to the Federal Steel Company build any new mills there?

A. Yes; we built a blooming mill.

Q. You built a blooming mill?

A. We built a blooming mill and we enlarged the capacity of the rail mill, and at that time we built the furnaces too.

Q. How long prior to that sale?

A. Well, the furnaces were not finished when the property was transferred to the Federal Steel Company. The blooming mill was finished and had just been put into operation; it had run so short a time that I could not give you a figure on its product.

Q. Do you know what the capacity of it was?

A. The capacity should have been about a thousand tons a day for each one of those blooming mills.

Q. State, Mr. Moxham, whether or not prior to that sale your company had come in competition with the Carnegie Steel Company in the sale of billets, and slabs.

A. We had.

Q. In what territory?

A. Our market was a home market. We marketed almost everything in Cleveland, or immediately around there, and it was in that territory that we had competition.

Q. Did you sell any outside of the State of Ohio?

A. Well, it is so many years ago, that I cannot remember beyond this general statement of fact, that if so, it was very little.

Q. Did the Carnegie Steel Company sell in that territory?

A. Yes, sir.

Q. How about the Ohio Steel Company?

A. They competed in that territory also.

MR. SEVERANCE: What company was that?

MR. DICKINSON: The Ohio Steel Company.

MR. SEVERANCE: Where was it located?

THE WITNESS: At Youngstown.

By MR. DICKINSON:

Q. Did the Ohio Steel Company sell anywhere else?

A. I do not know.

Q. Of the entire product of girder rails and slot rails and bridges and all kinds of street car specialties made at that time, what proportion was made by the Lorain Company and the Johnson Company?

A. I would say 90 per cent of it.

Q. You spoke of erecting a blast furnace. Was there one or were there two blast furnaces?

A. Two.

Q. What were their capacities?

A. We expected to make about 650 tons a day in each furnace; I think we did make about 550.

Q. At the time the Lorain property was sold to the Federal Steel Company state whether or not you had the rail mill that could be used for the manufacture of T-rails?

A. Yes; that was the last enlargement we made, and it was made in order to fit us to go into the standard T-rail business.

Q. And you did it for that purpose?

A. It was an alteration, or rather an addition to the same mill we had before; it was not a new mill.

Q. An adaptation for going into that business?

A. Yes, sir; an adaptation.

Q. What was the capacity in T-rails?

A. Well, if we put it on T-rails and nothing else, I should think about 1250 to 1400 tons a day.

Q. Mr. Moxham, I would like you to state the negotiations which led up to the sale of the Lorain properties to the Federal Steel Company, when those negotiations began, with whom they took place, when they were concluded, and the price and manner of payment. Just state the whole transaction as near as you can.

A. We had been trying to sell the Lorain properties for a considerable time, and in our efforts to sell it we had negotiated with a good many different parties, with Carnegie, among others, I remember. Among our own directors were Mr. Oglebay of Oglebay, Norton & Company of Cleveland, who took a somewhat active interest in the matter of trying to aid us, and finally Mr. Sam Mathers opened negotiations directly with me that led to the sale of the property to the Federal Steel Company.

Q. To whom was the option given?

A. I will have to think. Wait a minute. I am not quite sure. I think it was given to H. H. Rogers.

MR. LINDABURY: I did not understand the witness to say there was an option given. Was there?

By MR. DICKINSON:

Q. Was there an option given?

A. I am not quite clear whether we gave a written option or not. There was a verbal option given at one period, and that is what ultimately led to the sale. I am sure there was a verbal option, and I am not sure whether it was written.

Q. And your recollection is it was given to H. H. Rogers.

A. I am not very clear to whom that was given, and it might have been given in blank as far as I know. It was given at the suggestion of Mr. Mathers to be used in making this sale, and until the sale was finally consummated in J. P. Morgan's office I really did not know who the parties were we were dealing with.

Q. Where was it consummated?

A. In the office of J. P. Morgan.

Q. Who was present?

A. Mr. Morgan was there. Mr. Bacon was there, Mr. Gary and Mr. Coster were there.

Q. And then the negotiation was concluded?

A. Finished there.

Q. At what price?

A. I do not know; I do not remember.

Q. You do not recall?

A. I do not recall.

Q. I will ask you whether you recall whether it was $9,000,000 or not?

A. I should say it would be somewhere near that, but the conditions were somewhat peculiar, and we established the principle that was to lead to the price. For instance, the materials we had on hand were reached by stock taking and were to be paid for at market rates. The property was to be assessed, and was assessed by Robert Hunt and Mr. Forsythe of Ohio.

Q. What Forsythe was that?

A. Robert Forsythe.

Mr. Lindabury: Do you mean assessed?

The Witness: Appraised. So that my recollection is when the deal was finally closed it was not for a fixed or specific figure, but that we knew at that time about where that figure would lead us. What that figure was I do not remember.

Mr. Dickinson: That is all.

CROSS EXAMINATION.

By Mr. Severance:

Q. Mr. Moxham, your plant there at Lorain and your plant at Johnstown neither of them were in competition at that time with the Illinois Steel Company, were they?

A. Neither of them.

Q. You had certain patents, did you not, covering the mill we use of girder rails?

A. A large number, yes, and of all these specialties.

Q. A large number of patents covering different specialties?

A. Yes.

Q. And you manufactured under those patents?

A. Yes.

Q. And sold those patented articles?

A. Yes.

Q. That constituted a large part of your business, did it not?

A. Yes.

MR. SEVERANCE: That is all.

(Witness excused.)

EVERETT D. ARNOLD,

called as a witness on behalf of the United States, being duly sworn, testified as follows:

DIRECT EXAMINATION.

By MR. DICKINSON:

Q. Mr. Arnold, where do you live?

A. I live at Avon by the Sea, New Jersey.

Q. In what business are you now engaged?

A. I buy and sell pipe and steel plates.

Q. Where is your place of business—in New York?

A. 26 Broadway.

Q. Please state whether at any time you were connected with the Troy Steel & Iron Company and the Troy Steel Products Company prior to their acquisition by the United States Steel Corporation?

A. I went with the Troy Steel & Iron Company in 1886, and in about 1894, the concern was reorganized and taken over by the Troy Steel Company.

Q. Troy Steel Products Company, was that?

A. No; the Troy Steel Company. I stayed there until 1897, and that is the last I had to do with the concern.

Q. In 1897?

A. Yes, sir.

Q. The first company was the Troy Steel & Iron Company, and that was taken over by the Troy Steel Company?

A. Troy Steel Company, yes.

Q. What was the Troy Steel Products Company?

A. That came along——

Q. After you left?

A. Yes; in 1900, I think.

Q. What was the Rensselaer Iron Company, and where was that located?

A. That was the same concern, but before the Troy Steel & Iron Company.

Q. A predecessor of that?

A. Yes, sir.

Q. What did the Rensselaer Iron Company manufacture up to the time it was taken over by its successor?

A. Steel rails, bars.

Q. Did it make billets?

A. Billets, blooms.

Q. Slabs?

A. Slabs and small forgings.

Q. When it was taken over what did the Troy Steel & Iron Company make?

A. The same things.

Q. And the Troy Steel Products Company, what did they make?

A. I do not know what they make.

Q. They came after you left?

A. The Troy Steel Company made billets and slabs only.

Q. Did they make rails?

A. No; the rail mill had been abandoned.

Q. Who aided or took part in the reorganization of the Albany & Rensselaer Iron & Steel Company when it was merged or developed into the Troy Steel & Iron Company? Who were the persons who were owners of the stock and controlled the affairs of the company?

A. Well, I do not know who had to do with the creation of the Steel Company, but I do know that Henry H. Rogers and John Rockefeller and Charles Platt and Benjamin Brewster

and Erastus Corning, Delaware & Hudson Railroad Company, and such people were in there; I know it by hearsay.

Q. Did they have anything to do with the organization of it?

MR. REED: I object to that as hearsay. He has just said he knows it by hearsay.

By MR. DICKINSON:

Q. Were all these people in there?

A. I should think they were in there, but I do not know it positively; I have always understood so.

MR. LINDABURY: Please do not give us your opinions or what you think. Just state what you know. The Judge did not attempt to ask you for your opinion.

MR. REED: You are going to strike that out, are you not, Judge Dickinson?

MR. DICKINSON: I am going to ask him the source of his knowledge and see whether he has any knowledge.

By MR. DICKINSON:

Q. Did you meet any of these parties yourself?

A. Yes.

Q. Came in contact with them?

A. Yes, sir.

Q. Which ones did you meet and come in contact with in connection with that company and its affairs?

A. I met Mr. Brewster, H. H. Rogers, Erastus Corning—that is all I can recall that I met of the ones that I mentioned.

Q. Of those you named, all the others you only know by hearsay as having any connection with it?

A. That is right, sir.

MR. REED: You consent to strike out the others?

MR. DICKINSON: The record shows.

MR. COLTON: The others are only hearsay.

MR. REED: I think it ought to be stricken from the record, as it appears it is only hearsay.

MR. DICKINSON: You will have to strike out a good deal afterwards to make the record straight.

MR. REED: Strike out simply the names. You do not want to put us to a motion to strike out.

MR. DICKINSON: I thought it showed on its face.

MR. SEVERANCE: Would it not be fair to have him state that the names of the others besides Mr. Rogers and Mr. Brewster and Mr. Corning could be stricken out of his answer?

MR. DICKINSON: Just say the names of all those except those he has identified as having come in personal contact with are not regarded by counsel for the Government as proven by the witness as having had anything to do with it

By MR. DICKINSON:

Q. Do you recall whether or not you came in personal contact with Mr. Rockefeller in those affairs?

A. Never. I can say, a little further on that, that I never came in contact with him. I never saw him but twice in my life.

MR. LINDABURY: Who is that?

THE WITNESS: John D. Rockefeller.

By MR. DICKINSON:

Q. Please state whether or not the Troy Steel & Iron Company ever manufactured steel pipes.

A. No, sir; never.

Q. Did they ever manufacture steel for making pipes?

A. The Troy Steel & Iron Company?

Q. Yes.

A. No, sir.

Q. State whether or not any experiments were ever conducted by the Troy Steel & Iron Company for the purpose of making steel to manufacture pipes?

A. No, sir. That was the Troy Steel Company, that came after that.

Q. That was one of the companies with which you were associated?

A. Yes, sir.

Q. Then, assuming that the question applies to the Troy

Steel Company, please tell me just exactly what experiments you made and what you did.

A. In reorganizing the Troy Steel Company, and in the creation of the Troy Steel Company, it was decided to build a basic Bessemer steel works, so that we could use northern New York ores; and it was during the period that we ran that plant, before it was closed down in 1897, that we made these experiments; that is, we made steel in several lots of different analyses, and it was made into pipe at Pittsburg, Chester and Oil City.

Q. What did the experiments demonstrate in respect to your capacity to produce steel for pipe?

A. It demonstrated that we could produce a quality of pipe that was better than anything else that was in use at that time.

Q. You have stated that that concern was shut down. What was the cause of its shutting down?

A. We could not make money enough to keep alive.

Q. It failed in business, did it, and shut down?

A. Yes.

Q. When did you leave that company?

A. In 1897.

Q. Were you a stockholder after that?

A. After that?

Q. Yes.

A. I was a stockholder to a small extent.

Q. Were you a stockholder at the time it was sold to the United States Steel Corporation?

A. Yes, sir.

Q. Prior to the time of its sale to the United States Steel Corporation, state whether or not anything was being done toward putting the Steel Products Company into commission for the manufacture of pig iron and steel.

MR. REED: You mean, if the witness knows.

MR. DICKINSON: Of course. I do not want him to say anything that he does not know.

MR. REED: The mere fact that he was a stockholder would not familiarize him with everything that was done.

MR. SEVERANCE: You mean immediately prior to the time of the sale?

MR. DICKINSON: At any time shortly prior thereto.

THE WITNESS: Prior to what? 1897?

MR. DICKINSON: Prior to the sale to the United States Steel Corporation.

MR. REED: In 1903.

MR. COLTON: He knows it better by the time of the sale to the United States Steel Corporation.

THE WITNESS: All I know about it is hearsay, that is——

MR. REED: I object to that as hearsay.

MR. DICKINSON: Well, let us see.

By MR. DICKINSON:

Q. State whether or not you had any interview with Mr. Rogers on that subject.

A. I had an interview with Mr. Rogers regarding a man that could go and take charge of the concern and run it and put it on its feet, as he put it.

Q. At what time was that interview?

A. I think it was some time in 1901. I do not know exactly, of course.

Q. What connection did Mr. Rogers have with the company at that time?

A. The same as he always had had.

Q. A stockholder?

A. Surely.

Q. And you had an interview with him in regard to having a man take charge of this work for the purpose of starting it up?

A. Yes.

MR. DICKINSON: That is all.

CROSS EXAMINATION.

By MR. REED:

Q. During the thirteen years that you were at the furnaces of the Troy Steel Company, how much cash was put into the plant in new construction?

A. The Troy Steel Company put about $1,500,000 into new steel works.

Q. How much had been put into the blast furnaces prior to the time that you went there?

A. About two and a half million dollars.

Q. So that the investment as you left it, in blast furnaces and steel mills, represented an outlay of about four million dollars?

A. That is right.

Q. When was the rail mill abandoned?

A. The rail mill was abandoned, I should say, in about 1894 or 1893.

Q. No rails were made after that time, were there?

A. I think not.

Q. Were the works shut down when you left there in 1897?

A. Yes.

Q. As far as you know, did they produce any iron or steel from 1897 until 1903?

A. They produced no iron and steel from 1897.

Q. Until the sale, I mean?

A. That is right.

Q. You spoke about some experimental batches of steel that were produced and sent to Pittsburg, Chester and Oil City?

A. Yes.

Q. What kind of steel was that? Bessemer steel?

A. Bessemer basic.

Q. Did that produce a satisfactory tube, a satisfactory pipe?

A. Yes, sir.

Q. Better than others that were commonly to be bought on the market at that time?

A. Yes, sir.

Q. Better than are produced now by the open hearth process?

A. No; the same thing.

Q. In other words, you produced a steel of about the same quality as the present open hearth steel?

A. The same analysis exactly.

Q. The same analysis exactly?

A. Yes, sir.

Q. And those experimental batches that you produced were no better, then, than the open hearth that is produced for similar purposes to-day?

A. That is right.

Q. Did you ever go any further with those experiments? Did you ever follow them up in any way by the production of any more steel?

A. We have been making pipe since 1897 and 1898 from open hearth steel, from the same analysis as the steel we got from the Bessemer converters; basic lime.

Q. You did not produce any more steel at Troy?

A. No. Nothing further was done at the Troy plant.

Q. Nothing further was done at the Troy plant to follow that up?

A. Not a bit. It went out of business.

Q. What steel products was the Troy plant capable of producing at the time you left it in 1897?

A. Billets, blooms and slabs.

Q. No finished products were produced there?

A. Not a bit.

Q. All the steel that was produced at that plant was produced by what is known as the basic Bessemer process, was it not?

A. That is right.

Q. That is much more expensive than the ordinary Bessemer process?

A. That is what put us out of business.

Q. That is the only reason you quit producing?

A. Yes.

Q. And it is a more expensive process than the open hearth process?

A. Very much.

Q. There is a very large amount of ore in that district, is there not?

A. In the Adirondack country, yes.

Q. What is known generally as the northern New York district?

A. Yes.

Q. You spoke, in your direct examination, of extensive northern New York ores. I wondered what you meant by the term "extensive." Of course that is purely relative, and might mean a million tons or it might mean a thousand million.

A. Oh, I think it is pretty well known that there is five or six hundred million tons of ore up there.

Q. What kind of ore?

A. Magnetic ore; high phosphorous.

MR. DICKINSON: I object to that. The witness has not qualified as having any expert knowledge of ores.

MR. LINDABURY: He has common knowledge.

MR. DICKINSON: I know, but he is giving what would be uncommon knowledge, and I except to that.

MR. REED: The witness testified, in direct examination, about extensive deposits of ore. I want to find out what he means by the word "extensive."

MR. DICKINSON: I enter the exception.

By MR. REED:

Q. Is any of the ore being used to-day?

A. Yes, sir.

Q. Do you mean to say that there is five hundred and fifty million tons of ore of a quality that is merchantable?

A. That is hearsay. I say it is generally known and thought by people who are familiar with that region that there is that amount of ore. No one can tell how much ore there is anywhere.

MR. DICKINSON: Do you know anything about that of your own knowledge?

THE WITNESS: Yes.

MR. DICKINSON: Are you an expert in ores?

THE WITNESS: No, sir; I am not.

MR. DICKINSON: Have you ever made any examination of those ores?

THE WITNESS: Yes.

MR. DICKINSON: Yourself?

THE WITNESS: Yes, sir.

MR. DICKINSON: I will ask you further about that later.

MR. REED: I think that is all, for the present.

REDIRECT EXAMINATION.

BY MR. DICKINSON:

Q. Have you ever operated any ore mines?

A. No, sir.

Q. Are you an engineer?

A. Yes, sir.

Q. What kind of engineer?

A. A mechanical engineer.

Q. Are you a metallurgist?

A. I am something of a metallurgist, yes, sir.

Q. Where did you study metallurgy?

A. Twelve years in Troy, in the steel works.

Q. And have you ever analyzed ores yourself?

A. No, sir.

Q. You have never, then, analyzed any of these New York ores?

A. I have had them analyzed.

Q. But have you done it yourself?

A. No, sir; I am not a chemist.

Q. What knowledge you have of that condition is second-hand, is it?

A. What knowledge I have of the New York ores is such knowledge as I gathered by being general superintendent at Troy, and having charge of the blast furnaces, among other things, and working those ores in the blast furnaces.

Q. What extent of ores did you have charge of there?

A. None at all.

Q. None at all?

A. Not any ore mines.

Q. You had charge simply of the ores you bought?

A. Exactly.

Q. Did you have anything to do with the operation of any ore mines up there?

A. Not a thing.

Q. Have you any personal knowledge of the extent of them?

A. I have, from investigations that I have had made.

Q. Have you made any investigation yourself?

A. No, sir.

Q. Then that is all hearsay, is it, reported to you by other people?

A. Yes, sir.

MR. LINDABURY: He said he had them made.

MR. DICKINSON: I understand; but they were reported to him by other people, I said.

MR. LINDABURY: Just like your investigation.

MR. DICKINSON: I except to his testimony about the ore deposits of New York, and move that it be stricken out.

RECROSS EXAMINATION,

By MR. REED:

Q. Do you own any ores there yourself?

A. No, sir.

Q. Are you interested in any ores there?

A. No.

MR. REED: That is all.

MR. DICKINSON: That is all.

(Whereupon the hearing was adjourned until to-morrow, Monday, June 17, 1912, at 10:15 o'clock a. m.)

NINETEENTH DAY.

ROOM 720 CUSTOM HOUSE,
NEW YORK, N. Y.,

MONDAY, JUNE 17, 1912.

The hearing was resumed at 10:15 o'clock a. m., before SPECIAL EXAMINER HENRY P. BROWN.

Appearances the same as heretofore noted.

JOHN F. TIERNEY,

called as a witness on behalf of the United States, being first duly sworn, testified as follows:

DIRECT EXAMINATION.

By MR. DICKINSON:

Q. Mr. Tierney, where do you live?
A. Lawrence, Long Island.
Q. What is your age?
A. Forty-two.
Q. Where are you engaged in business?
A. 80 Broadway.
Q. With what firm or corporation?
A. Moore & Schley, 80 Broadway.
Q. Is that a partnership or a corporation?
A. It is a partnership.
Q. How long have you been engaged with them?
A. As a partner for three years; as an employee for twenty-four years.
Q. State what duties you had, if any, especially in the year 1907 and just preceding, during and shortly after the time that the stock of the Tennessee Coal, Iron & Railroad Company was sold to the Steel Corporation, in respect of the loans and the collaterals pledged by Moore & Schley to secure loans?
A. I was cashier.

Q. Explain a little more fully. As cashier, what duties did you have in respect to the charge of those securities?

A. I had full charge of all the securities.

Q. Did you or not, as cashier, know where those securities were pledged?

A. I did.

Q. And what loans they were pledged for?

A. I did.

Q. And when they were changed, if at all?

A. I did.

Q. And when the loans matured?

A. I did.

Q. And when they were renewed?

A. Yes.

Q. When they were paid, if paid?

A. Yes.

Q. Mr. Tierney, on November 1, 1907, state where the certificates of stock of the Tennessee Coal, Iron & Railroad Company owned or controlled by Moore & Schley were. I mean by that for you to give a full statement, as of that date, of where such stock was, whether pledged or in their possession, and a full exposition of the facts with regard to it.

A. The stock was partially hypothecated in loans, and the balance was either held on hand or in what we call safe keeping, or in a box,——what we call a surplus box; called Box No. 2.

Q. You say part of it was hypothecated to secure loans?

A. Yes.

Q. Put up as collateral?

A. Yes.

Q. Was any of it put up alone as collateral, or was it in company with other collateral?

A. With other collateral.

Q. And part, you say, was in their possession at that time, at their place of business?

A. It was.

Q. You said there were two boxes—one you called what?

A. One was called the general box and the other one called Box No. 2.

Q. What is the general box?

A. It contained securities which we used daily and the other those that were not used daily. Just for convenience sake they were put over there, so as to avoid handling the securities every day.

Q. Was or was not what you had in the general box and what you had in Box No. 2 subject to use by Moore & Schley?

A. It was.

Q. They had legal control over that?

A. Yes, sir.

Q. Do you know how much, at that date, was in the general box?

A. Yes; I have a memorandum of it.

Q. And how much was in Box No. 2?

A. Yes.

Q. You also spoke of having certificates for safe keeping. What do you mean by safe keeping?

A. By safe keeping I mean stock that is owned, I suppose naturally owned by clients; we put over certain stock which we had, if its account is not fully paid for; if the account has securities that more than cover the debit balance, we will lay aside certain securities and put them over there, which we consider is the amount of excess equity in the account.

Q. Do you mean by that that they had in their possession on that day certain stocks which had been purchased by individuals, on which money had been advanced, in which, according to the market, there might or might not be an equity to the individuals?

A. That is it exactly.

Q. Did you or not control that stock and have the right to re-hypothecate it?

A. Yes; we would have if the account became impaired to the extent of depreciation in market prices.

Q. You have spoken of certain stock that you have there in possession, in the general box and in Box No. 2 and for safe keeping in the way that you have described. Was there any stock of the Tennessee Coal, Iron & Railroad Company on that date standing pledged as collateral for loans?

A. Why, yes, there was. There was some stock outstanding on what we call stock loans, failures to deliver by brokers

or clients' purchases there, due to non-delivery of stock or a straight borrowing transaction.

Q. I was referring then to stocks that Moore & Schley had pledged as collateral to banks and trust companies for loans of money. There was, I understand you, such stock as that?

A. Yes; that is right.

Q. If you made a memorandum from the books of the company as of that date, showing the amount of stocks in the general box, and box No. 2, and generally a statement showing the whereabouts of the stock at that time, please produce it.

A. Yes. (Witness producing papers.)

Q. I asked you about the statement showing what their condition was as of the 1st. Did you also make one as of the 4th?

A. Yes; one of these sheets refers to the condition as of the 4th.

MR. DICKINSON: I ask that these be marked as exhibits.

(The papers so identified were marked Government Exhibit No. 131 and Government Exhibit No. 131-a, June 17, 1912.)

By MR. DICKINSON:

Q. State how these statements were made up.

A. They were made up from our books.

Q. They were made up from the books under your direction?

A. Under my direction, yes.

Q. Under your supervision and direction and control?

A. Yes.

Q. Is that a correct statement?

A. Absolutely so.

MR. DICKINSON: I offer these in evidence.

MR. LINDABURY: Objected to as irrelevant, incompetent and immaterial.

By Mr. Dickinson:

Q. It appears from this statement that Moore & Schley held on November 1st, 1907, in possession, subject to their use, 24,777 shares. That is correct, is it?

A. Yes.

Q. And that they had out in use as collateral 71,700 shares, and 1300 shares out on stock loans?

A. Yes.

Q. Explain what you mean by out on stock loans.

A. A broker's client may purchase stock and the party who has sold the stock may be out of town or not able to get to his security box, and consequently he is not able to make the delivery, and it is the custom to favor such parties with a stock loan by loaning them the stock.

Q. That is, you had loaned that much stock out that you were entitled to get back?

A. That is correct.

Q. Then it appears that you had ten thousand shares held in safe keeping. Was that owned absolutely by other people?

A. Absolutely.

Q. And paid for?

A. Paid for.

Q. On the same paper it appears that there was 15,000 shares exchanged with the First National Bank. What were they exchanged for?

A. Other collaterals.

Q. And you got the other collaterals?

A. Yes.

Q. What did you do with those collaterals?

A. Hypothecated those in loans.

Mr. Lindabury: You mean this 15,000 was put up with the First National Bank?

A. Yes, sir.

Mr. Lindabury: And not gotten from the First National Bank by you?

A. No.

By Mr. Dickinson:

Q. When you state that, you mean it was exchanged with them for their collaterals that you got?

A. Yes; that is what I mean.

Mr. Lindabury: But it was lodged by you with the First National?

The Witness: That is correct.

By Mr. Dickinson:

Q. There is an item here of 20,000 shares United States Steel Corporation. Explain the facts in regard to that.

A. That was an exchange of securities arranged by Moore & Schley and the Steel Corporation under a contract.

Q. Was that a written contract?

A. It was.

Q. Have you the original with you?

A. I have.

Mr. Dickinson: It is agreed by counsel on both sides that instead of putting in the original agreement the stenographer may copy, subject to correction, this agreement as it appears at pages 181 and 182 of the proceedings of the Stanley Committee.

(The agreement referred to is as follows):

"Agreement, made this 23d day of October, 1907, by and between the United States Steel Corporation, a corporation organized and existing under the laws of the State of New Jersey, party of the first part (hereinafter called 'the first party'), and Grant B. Schley, Grant B. Schley, Jr., Watson B. Dickerman, Henry P. Chilton and Kenneth B. Schley, composing the firm of Moore & Schley, party of the second part (hereinafter called 'the second party'):

"Witnesseth that in consideration of the mutual agreements hereinafter contained and of $1 in hand paid by each of the parties to the other, receipt of which is hereby acknowledged, it is mutually covenanted and agreed as follows:

"First. Upon the execution of this agreement the first party has delivered to the second party bonds of the United

States Steel Corporation, known as ten-sixty-year 5 per cent. sinking fund gold bonds issued under the indenture dated April 1, 1903, between the United States Steel Corporation and the United States Trust Co. of New York, of the aggregate par value of $1,200,000 to be held and disposed of by the second party as hereinafter provided.

"Second. Upon the signing of this agreement the second party has delivered to the first party properly assigned or transferred shares of the capital stock of The Tennessee Coal, Iron & Railroad Co., a corporation organized and existing under the laws of the State of Tennessee, of the par value of $2,000,000, such stock to be held and disposed of by the first party as hereinafter provided.

"Third. On or before April 23, 1908, the second party will deliver to the first party bonds of the United States Steel Corporation known as ten-sixty-year 5 per cent. sinking fund gold bonds, issued under the indenture dated April 1, 1903, between the United States Steel Corporation and the United States Trust Co. of New York, to the aggregate par value of $1,200,000, and will pay to the first party any and all interest which prior to said last-mentioned day shall have accrued and shall have been paid by the United States Steel Corporation upon the said bonds so delivered to the second party as aforesaid.

"Fourth. Upon the delivery of the said bonds to the first party as provided in the foregoing article of this agreement, the first party will deliver to the second party or its assigns stock of the Tennessee Coal, Iron & Railroad Co. of the par value of $2,000,000 and will pay to the second party all dividends which shall theretofore have been received by the first party in respect of such shares of stock.

"Fifth. It is expressly covenanted and agreed that time is of the essence of this contract, and that in the event that the second party shall fail to deliver to the first party on or before April 23, 1908, bonds of the United States Steel Corporation as hereinbefore provided, then and thereupon the first party shall have the absolute and optional right either (1) to retain and own the said shares of the capital stock of the Tennessee Coal, Iron & Railroad Co. of the par value of $2,000,000 delivered to the first party as aforesaid, or (2) to

demand and collect from the second party an amount which shall be equivalent to the market value on April 23, 1908, of the said bonds of the aggregate par value of $1,200,000 so delivered to the second party as aforesaid, together with any and all interest which shall have accrued upon the said bonds between October 23, 1907, and April 23, 1908, whether paid or unpaid.

"Sixth. The second party does hereby covenant, agree, and warrant that the market value of the said bonds on April 23, 1908, shall not be less than the market value thereof on October 23, 1907; and that in the event that the first party shall exercise its option to demand and collect from the second party the value of said bonds, and if the market value of the said bonds shall be less on April 23, 1908, than on October 23, 1907, then the second party will pay in cash upon demand to the first party, in addition to the market value of said $1,200,000 par value of said bonds on April 23, 1908, the difference between the market value of said $1,200,000 par value of said bonds on April 23, 1908, and on October 23, 1907. In the event that the first party shall not exercise its option to retain and own the said shares of the capital stock of the Tennessee Coal, Iron & Railroad Co., but shall demand and collect from the second party the moneys hereinbefore referred to, the first party will deliver to the second party the shares of the capital stock of the Tennessee Coal, Iron & Railroad Co. so delivered as aforesaid.

"Seventh. This agreement shall bind and be for the benefit of the successors and assigns of both of the parties hereto.

"In witness whereof these presents have been duly executed by the parties hereto the day and year first above written.

"UNITED STATES STEEL CORPORATION.

(Seal) "By E. H. GARY, Chairman.

Attest: "RICHARD TRIMBLE, Secretary.

(Witnesses: A. O. Allen, C. L. C. de Ganque, Jno. P. Downey, Geo. Lyons, J. E. Dempsey, C. A. Hutchinson, Moore & Schley, Grant B. Schley, Watson B. Dickerman, Henry P. Chilton, Grant B. Schley, Jr., K. B. Schley.)

By MR. DICKINSON:

Q. When was that 15,000 item exchanged?

A. You mean the First National Bank?

Q. Yes.

A. I do not just recall. I think it was around the 21st or 23rd of October.

Q. The 21st was the date?

A. Yes, I think that is the date.

MR. LINDABURY: I desire to have it understood that in consenting to the use of the copy of that agreement of October 23, between Moore & Schley and the United States Steel Corporation, as found in the record of the proceedings of the Stanley Committee, it is subject to objection as to relevancy, competency and materiality.

MR. DICKINSON: Oh, Yes.

By MR. DICKINSON:

Q. Here is an item of 15,000 shares exchanged with O. H. Payne. Please explain what that is.

A. That was in the nature of an exchange of securities between Mr. Schley and Colonel Payne personally.

Q. Was it an exchange of collaterals?

A. An exchange of collaterals.

Q. Mr. Schley gave those to Colonel Payne and got collaterals from Colonel Payne in exchange?

A. Yes, sir; I so understand.

Q. The one of November 4th is substantially the same as that of November 1st, except some small variations in these items, accounted for by the transactions intermediate between those two dates; is that correct?

A. That is correct.

Q. State whether or not you had made up from the books, under your supervision, tables, and if these are the tables please identify them (handing witness several sheets).

A. (After examination.) I identify them.

MR. DICKINSON: I ask that these be marked, and I wish to offer them.

(The papers referred to, so identified, were marked Gov-

ernment Exhibits Nos. 132, 132-a, 132-b, 132-c, 132-d, 132-e, 132-f, and 132-g, June 17, 1912.)

By Mr. Dickinson:

Q. Will you tell us what these show?

A. The sheet marked Government Exhibit No. 132 shows a list of demand loans with individuals, enduring, made and paid September 1st, 1907, to January 1st, 1908, containing Tennessee Coal, Iron & Railroad Company stock.

Q. The first column shows those who made the loans, does it?

A. That is correct.

Q. The second column shows the date of the loan?

A. That is right.

Q. And the third column the amount of money that was loaned?

A. Yes.

Q. The fourth column shows the date of payment?

A. Yes.

Q. The fifth column shows the number of shares of Tennessee Coal & Iron Company stock that was pledged for that loan?

A. That is correct.

Q. Does that mean pledged along with other collaterals?

A. That is correct.

Q. The other collaterals are not shown; you are only showing the amount of Tennessee Coal & Iron that is pledged for those particular loans?

A. That is right.

Q. Please state whether or not in any instance any of these loans referred to were secured solely by Tennessee collaterals?

A. I would not like to answer that offhand unless I refer to these sheets. Generally, there was other collateral.

Q. What is the next column, headed "Date"? What does that show?

A. It shows any change of Tennessee Coal in those loans, either by substitution or additional collateral.

Q. That is taken in connection, then, with the heading "Substitution?"

A. That is correct.

Q. And in the first column, under the head of "Substitution" and opposite the date, April 12, 1907, you have, under the column, "Put in," 100 Tennessee Coal & Iron. Please explain what that means?

A. That was put in that loan as a security for part of "substitutions."

Q. On April 12th. And in addition to the 100 shares that was already up?

A. That is correct.

Q. Please explain the item under the head of "Taken out," November 12, 1300 T. C. & I.?

A. That Tennessee Coal & Iron was taken out in order to exchange the same for its equivalent of steel bonds, in accordance with the basis of the exchange.

Q. The basis under which the corporation purchased the stock?

A. That is right.

Q. I will ask you to explain what these sheets (Exhibits 132-a and 132-b) show.

A. That is the demand loans made with the banks and trust companies, containing Tennessee Coal, enduring, made and paid September 1st, 1907 to January 1st, 1908.

Q. Is this made up in the same way as the other, and does the same general explanation apply to it?

A. It is, and it does.

Q. Turn to Government Exhibit, 132-c, and 132-d and explain what they are?

A. These are the time loans.

Q. Are these made up substantially as were the others with regard to which you testified?

A. Yes.

MR. LINDABURY: The only difference being that these are time loans?

THE WITNESS: Yes.

By MR. DICKINSON:

Q. Take the column "Date of Payment." That means the date of maturity as well as payment, does it?

A. Yes, sir; under the time loans the date of payment

means the date of maturity, because they were either paid or renewed on those dates.

MR. LINDABURY: In every case?

THE WITNESS: Yes, sir.

By MR. DICKINSON:

Q. I now show you Exhibits No. 132-e, f and g. What do they show? Do they show loans by banks and trust companies, so far as e and f are concerned, and does g show, in addition to that, loans to firms or individuals or companies?

A. They show loans to trust companies, individuals and firms and companies.

MR. LINDABURY: Individuals, firms and corporations, other than trust companies?

THE WITNESS: Yes, that is correct.

By MR. DICKINSON:

Q. Are these made out in the same way and does the same explanation apply that applied to the others about which you have testified?

A. Yes.

Q. On these sheets you have a column with the heading "Additional margin," preceded by a date. You have not explained that. What does that indicate?

A. That indicates that we deposited with those various institutions——banks, trust companies and individuals——Tennessee Coal & Iron Company stock as additional collateral.

By MR. LINDABURY:

Q. At the dates set down?

A. At the respective dates set down, yes.

By MR. DICKINSON:

Q. Without any other collateral being taken out?

A. If there is other collateral taken out it is specially mentioned.

Q. You were summoned to bring the books of Moore &

Schley. You have prepared this memorandum from the books. The books are ready to be produced here, are they?

A. They are.

MR. DICKINSON: I will state that we did not have the books brought, as a matter of convenience, but if the other side desires to examine the books we will have them brought into court.

MR. LINDABURY: I have no doubt Mr. Tierney would explain anything we desired to know at the office of Moore & Schley, in case we desire to see them.

THE WITNESS: I certainly shall.

MR. LINDABURY: That will be satisfactory to us.

CROSS-EXAMINATION.

By MR. LINDABURY:

Q. Can you tell me how many shares of stock of the Tennessee Coal & Iron Company were owned by Moore & Schley on November 1, 1907?

A. How many were owned by Moore & Schley?

Q. Yes; whether they were in their strong-boxes, or put up as collateral, or wherever they were, or whatever use was being made of them, if the title still remained in Moore & Schley.

My object is to ascertain the ownership of shares of the T. C. & I.

A. Moore & Schley did not own any of the Tennessee Coal & Iron.

Q. None whatever?

A. None whatever.

Q. Referring to the exhibit put in this morning, entitled Statement as to Tennessee Coal & Iron Stock, November 1, 1907, (Exhibit No. 131); please tell me who owned the stock, the shares of which are put down as 24,777, and which you say were in possession of Moore & Schley subject to use.

A. I could not say who owned it. It was part of the general stock in the office.

Q. Under what sort of right or title did Moore & Schley own that stock or acquire the right to use it?

A. We held that stock as collateral, pledged by clients for indebtedness owed by them.

Q. Is that true of the whole 24,777 shares?

A. That is correct.

Q. You had that as collateral to loans made by Moore & Schley to individuals or corporations?

A. I should say yes, sir, that is correct.

Q. Do you know who the borrowers on that were? I am not going to ask you to give the names just yet.

A. Yes; I do, generally.

Q. Were they stock brokers?

A. They were not.

Q. Generally were they clients of the house?

A. They were.

Q. And, speaking generally, when were those loans made?

A. Oh, they were made at different periods; six months and a year.

Q. Are you able to tell approximately how much was loaned on those 24,777 shares?

A. I would not care to say. I could not say, offhand, how much was loaned on that; but every share of stock that was in that box was entitled to be there. I can say that.

Q. I am not questioning that, of course.

A. Yes; but I could not say exactly how much, because the prices and values were changing constantly. At one time it was worth more, and at other times it was worth less.

Q. How much money this 24,777 shares was intended to secure, you are not able to tell us?

A. I could not tell you that.

Q. Do not your books show?

A. I would have to go and figure that up for the various clients, you see.

Q. You mean that they had put it up generally for their accounts?

A. Yes; they had put it up generally for their accounts.

Q. They had not, then, pledged these shares for specific loans?

A. Not for specific loans; for their general accounts.

Q. They were there, in each instance, to secure a general account?

A. To secure their general accounts, yes.

Q. I see. In many cases on the first of November, or at least before, there was not much margin left, was there, for those accounts, taking Tennessee at the selling price?

A. At the selling price?

Q. Yes. It did not have a selling price, did it?

A. Quoted nominally.

Q. How do you distinguish between that class of stock and the 71,700, under the second item entitled "in use"?

A. That was certain stock that we had not used in loans, having used other collateral in its place.

Q. Let me see. Title to that 71,700 shares was not in Moore & Schley, I take it?

A. Exactly.

Q. Was that 71,700 shares pledged with Moore & Schley as collateral for loans made to their customers?

A. Yes, sir.

Q. That 71,700 shares did not remain in the strong-box, but had been actually used by Moore & Schley as collateral for their own loans?

A. That is correct.

Q. "Rehypothecate," I believe, is what you brokers call it?

A. That is what we call it.

Q. By what right?

A. By the right of an understanding with the client that we are to use his securities to cover his indebtedness, to reimburse ourselves for the loans so advanced to him.

Q. That is, you had an understanding with your clients that the collaterals which they deposited to secure their general accounts might be rehypothecated by Moore & Schley to secure their own loans?

A. That is correct.

Q. And so on and so on?

A. Yes, sir.

Q. So that one share of stock, in that way, will secure a good many loans?

A. Of course, we do not ask the clients to——

Q. (Interposing.) I mean, it might, in that way, be hypothecated by one broker after another?

A. That is right.

Q. And do continuous service?

The next item in your statement is 1,300 shares out on stock loans. How does that differ from the item of 71,700?

A. I can only explain that as a matter of accommodation and agreement between brokers.

Q. You said that a while ago; but this was stock that you had contracted to sell?

A. Oh, no. It is stock that we had either bought or had loaned directly to the houses as a favor, a convenience.

Q. But if you had bought it, does this mean that you had paid for it but not yet obtained delivery?

A. No, sir; we did not pay for it, because we had not received the security.

Q. But, instead of meaning that, it may mean stock that you loaned——

A. No; stock that we were liable for in case of non-delivery by the broker. I might explain that.

MR. DICKINSON: Explain that fully.

THE WITNESS: A broker in the West or in the South may send a telegram to sell 100 shares of Tennessee Coal & Iron. We might execute that order if the market exists. It is natural that 100 shares of Tennessee Coal & Iron could not be shipped, from either Louisiana or any state in the West, and get here for the next day's delivery. If I sold that stock I would immediately call up a broker and explain to him that the certificate is in transit, or the party is out of town, and I would like to borrow that stock for a certain period, either twenty-four hours or a week, until my client can send the certificate, in order that I may make physical delivery.

By MR. LINDABURY:

Q. You mean you borrow that, from the man you sold it to, or from some other broker?

A. Or from some other broker.

Q. You borrow it, sometimes, from the very man to whom you sold it?

A. Exactly.

Q. Let us go back to the first item. On that you have 16,496 shares in the general box and 897 in Box No. 2. I do not recall how you distinguish between the two. I think you said the general box was one upon which you drew generally?

A. That is correct.

Q. What is Box No. 2?

A. That is a box where we have surplus securities, and we put them over there, as I say, to avoid constant handling of them daily.

Q. By that you mean that if a broker had more collateral than was needed to secure his balnces, you took some of the collateral and put it in Box No. 2?

A. That is correct.

Q. Was that an arbitrary act on your part, or the result of a specific agreement with the customer?

A. It was simply an arbitrary act on our part, for convenience sake, to avoid the necessity of handling these securities daily.

Q. But either from Box No. 2 or from the general box, you drew, as occasion required?

A. That is correct.

Q. You did not hesitate to put up the contents of either, as your own collateral?

A. No, sir.

Q. You had 13,284 shares for "safe keeping, subject to use." What did that mean? That some client simply put that stock in your hands without borrowing on it?

A. That stock there was stock that was put over there during the early summer, which I figured was not subject to borrowing.

Q. Was not subject?

A. Was not subject to borrowing purposes.

Q. But you have said over here that it was?

A. I am explaining why it is there. During the late summer we had a very severe decline in the prices on the market, which gave me the right to withdraw that 13,384 shares from

safe keeping and use it; but I did not use it, because I did not really need it.

Q. Let me see if I understand.

You did not answer my question, which was whether or not this 13,384 shares was simply left with you by a client or friend for safe keeping, without anything being borrowed on it.

A. It was not, no, sir.

Q. That is not so?

A. No, sir; that is not so.

Q. How, then, do those shares differ from the ones in Box No. 2?

A. They should not differ, except in the fact that the books and records show that they are in these particular places at the time this statement was made up.

Q. Why did you not put those in Box No. 2?

A. I could not say why I did not do it.

Q. I understood you to say a while ago that they were put in the particular receptacle containing them, in the summer of 1907, and were not then, when first put there, at least, subject to use?

A. I used that word "summer" generally. It may have been along earlier in the year than that.

Q. The point of the inquiry is what you meant by the statement that they were not, then, subject to general use.

A. Because of the fact that the party's account was in such shape, at that time, that we considered it did not require the Tennessee Coal & Iron; but during the late summer it did.

Q. What did you mean by the statement, then, that those securities were not subject to use?

A. They were not subject to use?

Q. You said a little while ago that they were not subject to use when they were put in this receptacle?

A. That is generally supposed; yes, sir.

Q. Was that because they were not needed as collateral for the account?

A. No, sir. The account was paid for, practically. These particular securities should not be borrowed on, on account

of their having sufficient margin otherwise than these required.

Q. Exactly. That, I understand, was the characteristic of the securities in Box No. 2,—that there was sufficient margin, in that case, not to require the securities in Box. No. 2, and that was the reason they were put there?

A. No, sir.

Q. Then explain what was in Box No. 2 and why they were there. I seem to have misunderstood you.

A. Box No. 2, as I say, is simply a box for convenience for us; that is, we have surplus securities. I give directions that certain securities be put in Box No. 2, simply for the reason that we have no use for them.

Q. I understood you to say that they were put in Box No. 2 because they constituted excessive collateral for your clients' account; consequently, as surplus stock, they were put in Box No. 2. Is that erroneous?

A. That is erroneous. I should have impressed you with the fact that "safe-keeping" is the box for that purpose.

Q. If I understand you now, your statement is that this surplus was with respect to your own needs, without regard to your clients' account; that is, that you put in Box No. 2 those securities put up by your clients subject to re-hypothecation, that you did not need to use for re-hypothecation?

A. That is right.

Q. Because of what other securities you had?

A. That is right.

Q. So that Box No. 2 refers to a surplus of what Moore & Schley had over what they needed for re-hypothecation?

A. That is right.

Q. Rather than a surplus of securities put up by the client to secure his account?

A. That is correct.

Q. That is right?

A. That is correct.

Q. The next one "safe-keeping, subject to use" apparently is different and represents a surplus of the client's securities over and above what he needed to secure his account. Am I right about that?

A. For safe-keeping, yes, sir.

Q. I understood you to testify that the situation changed, and although this collection or securities represented a surplus margin at the beginning, on account of the depreciation of the securities intended to support the particular accounts, towards the panic or during it, the earlier situation no longer existed, and these did become subject to use because they were needed to make an adequate margin to the accounts from which they had been originally taken?

A. That is correct.

Q. And your statement here, "subject to use," therefore, relates to the situation on November 1, 1907, rather than to the situation in the summer or spring when that lot of securities were collected?

A. That is correct, sir.

Q. Your next item, under the head of "In use," gives 71,700 shares as deposited as collateral for loans. That is in addition, I take it, to anything contained in the earlier item, is it?

A. Yes, sir.

Q. Those loans had been effective from time to time, I suppose, and are shown generally on the schedules beginning with 132?

A. Yes, sir.

Q. They generally represent the loans on the schedules beginning with 132 and ending with 132-G?

A. Yes.

Q. And all of those were shares belonging to clients?

A. They were.

Q. (Continuing.) That had been put up by the clients to secure their loans?

A. That is correct.

Q. And were re-hypothecated by you?

A. And were re-hypothecated by us, yes, sir.

Q. "Held in safe-keeping, 10,000 shares, owned by others, fully paid for and not subject to use." What does that mean?

A. That was stock that was owned absolutely, outright, by a client.

Q. By a single client?

A. Yes.

Q. Would you feel any objection to mentioning his name? Or do you think you should not do so?

A. I think I ought not to do so.

Q. It is a single individual?

A. Yes; a single individual.

Q. Where was that?

A. That was in that box, styled "Safe-keeping," along with that other 13,384 shares.

Q. But the one was subject to use and the other was not?

A. That is correct.

Q. These ten thousand shares, I suppose, were sold a few days after, along with the rest?

A. That is correct.

Q. But of course they were sold by the client?

A. Sold by the client, yes.

Q. It is not on this statement, therefore, except merely for the purpose of showing the stock actually in the hands of Moore & Schley?

A. That is correct.

Q. Without respect to title?

A. That is correct.

Q. They had no title to it, and no right to use it?

A. None whatever.

Q. Had it been purchased from Moore & Schley?

A. It had been purchased by Moore & Schley.

Q. No, I say had it been purchased from Moore & Schley?

A. No, sir; it had never been purchased from Moore & Schley.

Q. Moore & Schley purchased it for this client?

A. Moore & Schley had purchased it as a broker, yes.

Q. I see. About when?

A. At different periods; some of it earlier—some two years ago; some later. I could not give the dates.

MR. DICKINSON: You state two years ago. Do you mean two years before that time?

THE WITNESS: Two years before that time, yes, sir.

By MR. LINDABURY:

Q. Exchanged for other stocks. I think your schedules;

No. 132 to 132-g show when this 15,000 shares of stock were exchanged by the First National Bank, do they not?

A. They do; yes, sir.

Q. Do you recall the date?

A. If I recall the date correctly, it is October 21.

Q. It was a few days before November 1st, was it not?

A. Yes.

Q. And that is true also of the 20,000 shares exchanged with the United States Steel Corporation?

A. Yes.

Q. And what about the 15,000 shares exchanged with O. H. Payne?

A. That was at a little earlier date.

Q. Did you have anything to do with any endeavors about this time to get payment on the loans to Moore & Schley secured by this Tennessee Coal & Iron stock as collateral?

A. I did not.

Q. Who did?

A. I should think that would come through Mr. Schley.

Q. You do know, do you not, that Moore and Schley made very strenuous endeavors to get the loans secured by this stock paid about that time?

A. Yes, they did.

Q. Do you know whether any of the holders of the loans shown on the schedule 132 to 132-g called their loans? Of course, I mean the demand loans. I mean during the period of a week or a few days after November 1st, 1907?

A. I do not quite understand that.

Q. I will ask the question again. Can you tell me whether any of the loans shown on the schedules 132 to 132-g were called about November 1st, either a little before or after November 1st?

A. They were, according to that schedule; there were some loans—

Q. Were quite a good many of them called?

A. There were any number of loans called during that period; yes, sir.

Q. I see that a good many of the loans were held by the Chase National Bank. Do you know whether or not they acted

as the loaners in all cases, or whether in some cases they represented out of town banks?

A. They sometimes represented out of town banks—largely.

Q. Is it true, therefore, that a number of the loans that are down here in the name of the Chase National Bank were really held by out of town banks?

A. That may be the case, yes.

Q. Was that more or less the practice?

A. It was.

Q. Explain it, will you not?

A. The banks get instructions from out of town institutions to loan money for their account. The order is sent by the bank to their money broker in the Exchange to loan this money.

Q. And the loan is made?

A. The loan is reported by the broker—

Q. In the name of the bank that issues the order?

A. That is right, yes.

Q. Did the Chase National Bank, during the period alluded to—we will say from the middle of October to the 4th of November—call any of their loans?

A. They did, yes, if my recollection is correct.

Q. I want you to be sure about that.

A. I would have to look at that sheet.

Q. I am not asking whether or not any were paid, but I am asking whether they were called—demand loans?

A. I understand the question; but it would be very hard for me to say whether I paid them off or whether they were called—

Q. If you do not know, say so. Did they, so far as you know, call any of their loans?

A. Not to my knowledge.

Q. I see that there are other loans of considerable amount made by the First National Bank. Do you know whether they called any of their demand loans during the period spoken of? That is, between October 15th, and November 4th?

A. I do not think they did.

Q. You do not know of their having done it?

A. No, sir.

Q. Do you know whether the Bankers Trust Company called any of their demand loans during that period?

A. I would like to refer to that sheet.

Q. I will let you, but would this tell you? I do not want to know whether they were paid, but whether they were called.

A. No.

Q. If looking at it would refresh your recollection—

A. (Interposing.) No, it would not refresh my recollection, so far as the question is concerned.

Q. I do not want to know whether they were paid, but whether they were forced, and you cannot tell?

A. No, sir.

Q. You never heard of their forcing payment of their demand loans during that period, did you?

A. I never have.

Q. You have told us of Tennessee Coal & Iron stock, that Moore & Schley dealt with on November 1st, none of which you say belonged to Moore & Schley. Do you know how much Tennessee Coal & Iron Stock Mr. Grant B. Schley had at that time?

A. No, I do not.

Q. He had a considerable amount of it, did he not?

A. He did have a considerable amount.

Q. In his individual right and name?

A. Yes.

Q. Do you know whether that had been put up as collateral or not?

A. Yes, sir; I do.

Q. Substantially all of it?

A. Yes, substantially all of it.

Q. Have you no idea of the amount of it?

A. I have not.

Q. But you know it was a very substantial amount?

A. It was.

Q. Do you know how much of the stock of the Tennessee Coal & Iron Company was exchanged by Moore & Schley for Steel bonds, under the purchase of November 4?

A. No, sir; I could not say offhand.

Q. A very large proportion of it?

A. A very large proportion, yes.

Q. More than one-half of the total, was it not?

A. Yes; I should say so.

Q. Why, in the instances shown on the schedules Nos. 132 to 132-g was other stock substituted as collateral for Tennessee Coal & Iron stock, if you know?

A. That was only in a few instances, and at the request of the place where it was lodged as collateral, to cover a loan.

Q. They did not want to continue to hold it as collateral?

A. No, sir.

Q. During the week preceding November 1st, Tennessee Coal & Iron Company stock was not acceptable generally as collateral, was it?

A. It was not, no, sir.

Q. The reason that this 24,777 shares remained in the possession of Moore & Schley subject to use but was not used was for that very reason, was it not—that it was not at that time acceptable as collateral?

A. I should say so, yes, sir.

Q. These lenders on time loans had a right to call for additional collateral?

A. They did.

Q. If they chose to do so?

A. If they chose to, yes.

Q. And very many, I take it from your testimony, did call?

A. Not many, no, sir.

Q. Many of those who had call loans called the loans?

A. Yes. That was generally, but not containing Tennessee Coal & Iron.

Q. I understand that. Did Moore & Schley have in their box in securities available for that purpose additional collateral except this large amount of Tennessee Coal & Iron Company stock?

A. They did.

Q. They had not put up their other securirties as collateral?

A. They put up other securities—

Q. But did they not put up substantially all securities of any other character on November 1st, for their loans?

A. I do not quite get that.

Q. That may not be very clear. They had on hand, not used, as you put it, November 1st, 24,777 shares of Tennessee Coal & Iron Company stock. That you know?

A. Yes.

Q. There was no substantial change in that item on November 4th, was there?

A. None to speak of—200 shares or so.

Q. Some of the holders of time loans were demanding additional collateral during that period, were they not?

A. No, sir; they were all satisfied.

Q. I do not mean additional collateral to what you did give them, but they were calling for additional collateral and you did give it to them?

A. Yes; we gave it to them voluntarily—

Q. I do not suppose any banker was giving up anything that was not asked for during those times?

A. No, sir.

Q. And some of the holders of demand loans were asking for payment? You have told us that, I think?

A. Yes.

Q. Of course, if they could have been satisfied with additional collaterals, that would have changed the situation more or less, would it not?

A. In the case of demand loans, no. They required the money.

Q. Without any regard to the collateral?

A. Yes; without regard to collateral. They were calling them?

Q. Did you not satisfy any of those who had demand loans?

A. The ones that were called?

Q. Yes.

A. No loans were called from the fact that additional margin was necessary.

Q. The point of my inquiry a little while ago was whether or not Moore & Schley had used up substantially all the securities they had in their box except the Tennessee Coal & Iron Company stock?

A. I do not quite catch that. Moore & Schley had enough securities in the box to satisfy all demands that were made.

Q. I am not questioning that, of course. But nevertheless, had they not, on the 4th—I will not say the 1st, if there is any difference—used substantially all the securities they had except the Tennessee Coal & Iron Company stock?

A. They had, but that was not—

Q. That is all.

MR. DICKINSON: Let him finish his answer.

MR. LINDABURY: I do not say that was the reason for their troubles.

THE WITNESS: I do not like to have it so interpreted on the minutes.

By MR. LINDABURY:

Q. That was not the occasion of any trouble. I mean to say they did not default in any demand made upon them?

A. That is absolutely so.

Q. But I want, nevertheless, the fact that they had used substantially all the collateral they had in their box except this Tennessee Coal & Iron Company stock, and that was not current at that time, was it?

A. It was not.

Q. I think you can tell me, Mr. Tierney, approximately the amount of the loans of Moore & Schley at that time, we will say November 4th, if there is any difference between November 1st and the 4th. I think you must know the figures. We have had them several times before.

A. No, I have not had the figures.

Q. You knew of the loans?

A. Yes, I knew of the loans.

Q. They were between $30,000,000 and $40,000,000, were they not?

A. Between those figures, yes, sir.

Q. On which this Tennessee Coal & Iron Company's stock and other securities they had were put up as collateral?

A. Yes.

MR. DICKINSON: Do you mean that Tennessee Coal & Iron Company stock was put up as collateral for the whole of that?

MR. LINDABURY: Oh, no, I do not mean that.

By MR. LINDABURY:

Q. They had loans aggregating between $30,000,000 and $40,000,000?

A. Yes, sir.

Q. And to secure those loans this 71,700 shares mentioned in your second item, together with other securities they owned, had been put up as collateral?

A. That is correct.

Q. And for the 15,000 shares given to the First National Bank, the 20,000 shares of Steel stock and the 15,000 shares to O. H. Payne shown on your statement, Moore & Schley had received other current or marketable securities, had they not?

A. That is correct.

Q. And this was within a period of a week or two before November 1st?

A. With the exception of the stock to Colonel Payne, it was.

Q. That was some time earlier?

A. Some time earlier.

Q. And these current or marketable securities that they had received in exchange had been put up as collateral for some of these loans, aggregating $30,000,000 or $40,000,000?

A. That is right?

Q. In fact the exchange was made in order that they might get the securities for use?

A. That is correct.

Q. The direct object of the exchange of this 50,000 shares, or at least of the 15,000 to the First National Bank and the 20,000 to the United States Steel Corporation was that they might get usuable securities, was it not?

A. Yes.

Q. In place of non-current ones?

A. That is correct.

REDIRECT EXAMINATION,

By MR. DICKINSON:

Q. You were asked about the amount of loans to Moore & Schley on November 1st and 4th, and whether or not it was

from $30,000,000 to $40,000,000. Do you know how much it was? There is quite a margin there.

A. I could tell you the amount of loans on the 1st; it is in Mr. Schley's testimony, I think. Did not Mr. Schley testify to that before the Stanley Committee?

Q. I think he did. Do you recall whether or not it was from $35,000,000 to $38,000,000?

A. I cannot recall offhand, no, sir.

Q. You were asked about this general box and box No. 2. Was there any question as to the legal right of Moore & Schley in regard to the collaterals, or was that an arrangement for your own convenience?

A. There was no legal question involved. It was just a matter of convenience.

Q. Where you borrowed from a local bank here, which really may have been representing banks outside of New York, with whom was that transaction made—with the bank here or with the outside bank?

A. With the bank here, and I would not know whether it was for an out of town bank, unless it was specifically specified.

Q. And your obligation ran to the bank here?

A. Yes.

Q. And what arrangements they made with the outside bank, that was their own affair, was it?

A. Yes.

(Thereupon, at 12:30 o'clock p. m., a recess was taken until 2 o'clock p. m.)

AFTER RECESS.

At the expiration of recess the hearing was resumed.

JOHN F. TIERNEY,

the witness under examination at the taking of recess resumed the stand for further

REDIRECT EXAMINATION.

By Mr. Dickinson:

Q. You were asked whether or not Mr. Schley had considerable stock in the Tennessee Coal, Iron & Railroad Company put up as collateral. Please state whether or not Mr. Schley's stock is included in this statement of November 1st and the statement of November 4th?

A. It is.

Q. It was not stock in addition to that?

A. No, sir.

Q. You were also asked about Moore & Schley exchanging Tennessee Coal & Iron Company stock for bonds after the trade was made by which the Steel Corporation was to take the stock in exchange for bonds. Please state what stocks you exchanged; whether or not there was any in addition to what is shown in the statement.

A. I could not say that there was any in addition to that stock, except possibly there may have been one or two small lots which we exchanged as a favor. But that was brought in subsequent to the deal made with the Steel Corporation.

Q. In which you were representing some one else?

A. Yes.

Q. But did you exchange any substantial amount of stock other than shown here?

A. No.

RECROSS EXAMINATION.

By Mr. Lindabury:

Q. How do you know the stock of Mr. Schley, and owned by him individually, was included in the 71,700 shares deposited as collateral for loans?

A. By looking at the record, by looking over the books.

Q. When did you do that—not since this morning?

A. No, sir.

Q. How came the Schley stock to be in the possession of Moore & Schley and used or usable for loans?

A. It was purchased in the open market like any stock for Mr. Schley's account.

Q. I know, but why did Moore & Schley put up Mr. Schley's individual stock to secure Moore & Schley's loans?

A. Mr. Schley had that deposited with the firm of Moore & Schley in protection of his account.

Q. Oh, Mr. Schley as an individual had an account with Moore & Schley as a firm, did he?

A. Yes.

Q. That is, he was indebted to them?

A. He was indebted to them, yes.

Q. And his individual stock had been put up with them as collateral?

A. That is correct.

Q. So they held it in the same way that they held other stock with them, rehypothecated?

A. Yes, that is correct.

Q. And was Mr. Schley's individual stock so treated?

A. Yes.

Q. That is your understanding?

A. Yes, sir.

Q. You do not know the amount, do you?

A. No, sir; I do not.

Q. And you do not know the amount of his indebtedness to the firm?

A. No, sir; I do not recall it.

Q. Was it a considerable amount?

A. It was a considerable amount.

Q. You do not know where the balance of the Tennessee

Coal & Iron Company's stock was held at that time, I suppose?

A. No.

Q. There was no more of it in the possession of Moore & Schley, in any capacity or in any amount?

A. No. The statement covers all the stock that was in the possession of Moore & Schley at that time.

Q. This was not all in the possession of Moore & Schley; the major part of it was in the possession of other parties?

A. Well, if you construe it that way. I mean all that Moore & Schley had any record of on their books in any shape or form or manner.

(Witness excused.)

FOSTER MILLIKEN,

called as a witness in behalf of the United States, being first duly sworn, testified as follows:

By Mr. Colton:

Q. Mr. Milliken, what is your age?

A. Forty-seven years.

Q. Where did you go into business?

A. When did I go into business?

Q. When and where?

A. In New York City, about 1882.

Q. What was that business?

A. That was the firm of Milliken, Smith & Company. They were agents of the Phoenix Iron Company for the sale of structural material.

Q. Roughly speaking, what was the time that you were in that business?

A. I think we gave up the agency about 1887 or 1888, and then we went into the contracting business.

Q. With what concerns did that agency bring you in contact?

A. It brought us in contact with the local concerns in this

market who rolled structural iron, and also in contact with concerns in Chicago and St. Louis that used the same.

Q. Tell us briefly the story of your business connection with these concerns subsequent to the time that you ceased to be agents for the Phoenix Iron Company?

A. I should think it was about 1888 that my late brother Edward F. Milliken and myself, forming the partnership of Milliken Brothers, engaged in the manufacture of structural steel work, our plant then being located at the foot of Jay Street, Brooklyn. I think we moved from that plant to South Brooklyn, at the foot of Court street, where we built a very much larger plant about 1893 or 1894—I cannot give you the exact date.

Q. No matter about the exact dates.

A. (Continuing.) Where we carried on the business until 1902, when we built a larger plant on Staten Island.

Q. Was your business such as to bring you in contact with bridge companies in the United States generally?

A. It was; yes, sir.

Q. What do you mean by a bridge company?

A. A bridge company would be a company whose primary business is building bridges, either highway bridges or railway bridges, and very often those same concerns fabricate what we call structural business or material for building purposes, strictly speaking.

Q. Did you come into contact with concerns that were engaged in building bridges and also in structural work?

A. We did; yes, sir.

Q. Did you have any business outside of this country?

A. We did; yes, sir.

Q. How extensive was that business?

A. Very extensive. I might state it went almost all over the world.

Q. Are there any classes into which concerns engaged in fabrication of bridge work and building of bridges can be divided?

A. You mean with relation to their size?

Q. I mean if there is any way in which you classify bridge concerns?

A. I classify them in my own mind.

Q. What is their classification?

A. I classify them as very small concerns, medium concerns and large concerns.

Q. Does that have any reference to the class of work done by each?

A. Yes, sir.

Q. Explain that in full, please.

A. A large and important concern I would call a concern that was capable of doing the heaviest types and has tools able to take care of the heaviest types of bridge and building work; the medium concerns would be the concerns that had not such good facilities, such heavy tools, and then the little fellows might embrace almost anybody, down to the village blacksmith.

Q. I am going to read you a list of concerns and ask you to name which of these concerns, if any, come in the first class.

A. You mean with relation to the present or at some other period of time?

Q. With relation to the year 1900. You had better take that in relation to what you were doing at that time; where were you located at that time?

A. We were located at the foot of Court Street, Brooklyn.

Q. Without repeating the question, I wish you to classify such of these concerns as you can that you would put in the first class: A. P. Roberts & Company; Pencoyd works?

A. First class.

Q. Keystone Bridge Works; Keystone, Pennsylvania?

A. First class.

Q. Berlin Iron Bridge Company; Berlin, Connecticut?

A. Second class.

Q. Post & McCord; Brooklyn, New York?

A. First class.

Q. Elmira Bridge Company, Elmira, New York?

A. First class.

Q. Union Bridge Company; Athens, Pennsylvania?

A. First class.

Q. Edge Moor Bridge Works; Wilmington, Delaware?

A. First class.

Q. Lassig Bridge & Iron Works; Chicago, Illinois?

A. First class.

Q. Shiffler Bridge Company; Pittsburg, Pennsylvania?

A. First class.

Q. Detroit Bridge & Iron Works; Detroit, Michigan?

A. Second class.

Q. Rochester Bridge & Iron Works; Rochester, New York?

A. First class.

Q. Groton Bridge & Manufacturing Company; Groton, New York?

A. Third class.

Q. Youngstown Bridge Company; Youngstown, Ohio?

A. I do not know enough about them to classify them.

Q. J. G. Wagner & Company; Milwaukee, Wisconsin?

A. I do not know.

Q. Wrought Iron Bridge Company, Canton, Ohio?

A. I cannot say, not knowing enough about them to classify them.

Q. New Columbus Bridge Company; Columbus, Ohio?

A. Same answer.

Q. Gillette-Herzog Manufacturing Company, Minneapolis, Minnesota?

A. Second class.

Q. Lafayette Bridge Company, Lafayette, Indiana?

A. I do not know them well enough to classify them.

Q. Pittsburg Bridge Company; Pittsburg, Pennsylvania?

A. First class.

Q. Schultz Bridge & Iron Company; Pittsburg?

A. Second class.

Q. Buffalo Bridge & Iron Works; Buffalo, New York?

A. I do not know enough about them to classify them.

Q. Koken Iron Works, St. Louis?

A. Third class.

Q. Hilton Bridge Construction Company; Albany, New York?

A. Third class.

Q. Horseheads Bridge Company; Horseheads, New York?

A. I do not know enough about them to classify them.

Q. American Bridge Works; Chicago, Illinois?

A. I do not know enough about them to classify them.

Q. New Jersey Steel & Iron Company; Trenton, New Jersey?

A. First class.

Q. Toledo Bridge Company; Toledo, Ohio.

A. I do not know them well enough to classify them.

Q. Nelson & Buchannan Company; Chambersburg, Pennsylvania?

A. I do not know them well enough to classify them.

Q. What percentage of the total capacity of concerns capable of doing work requiring large tonnage and the fabrication of heavy structural material was acquired by the concerns which I have just named?

MR. SEVERANCE: If he knows.

MR. COLTON: If he knows, of course.

MR. SEVERANCE: Probably he does not know. How can he know that?

THE WITNESS: Do you mean my opinion?

MR. COLTON: Based on your general knowledge.

MR. SEVERANCE: I object to a speculative opinion. He admitted that as to a good many he does not know anything about them. May I examine him as to his qualifications?

MR. COLTON: Certainly.

By MR. SEVERANCE:

Q. What knowledge have you as to the tonnage of any of these respective plants in 1900?

A. I just do not know what you mean by tonnage. Tonnage is a very indefinite thing, speaking of a bridge or fabricating works.

Q. That was the question asked you by counsel.

A. No; I do not think so.

MR. COLTON: No; I asked what percentage of the total capacity of the concerns capable of doing work requiring large tonnage——

THE WITNESS: He asked me to classify them.

By MR. SEVERANCE:

Q. I will change the word "tonnage" to "capacity."

Do you know anything about that except what some one told you?

A. Yes; I do; but that word "capacity" is also just as bad as the word "tonnage."

Q. You are unable to answer the question of counsel, are you, then?

A. No, sir. I do not think the Government put that question.

MR. SEVERANCE: Will you read the question again, Mr. Stenographer ?

(The stenographer repeated the question as follows:)

"Q. What percentage of the total capacity of concerns capable of doing work requiring large tonnage and the fabrication of heavy structural material was acquired by the concerns which I have just named."

THE WITNESS: I did not answer that question.

By MR. SEVERANCE:

Q. You cannot answer it?

A. No, sir; I cannot.

MR. SEVERANCE: All right. I do not care to inquire further of the witness.

By MR. COLTON:

Q. What percentage of concerns capable of fabricating heavy structural material and building large and heavy bridges was taken in by the American Bridge Company in 1900, which includes the concerns read to you just now?

MR. SEVERANCE: That is the same question.

MR. COLTON: I ask that question.

MR. SEVERANCE: I know; but I object on the ground just stated, that he is unable to answer; and the question is almost identical and involves the same subject-matter.

MR. COLTON: It may to you, but it may not to him. I ask the question.

MR. SEVERANCE: Do you see any difference between the two, Mr. Milliken?

(By request of the witness the stenographer repeated the question, as follows:)

"Q. What percentage of concerns capable of fabricating heavy structural material and building large and heavy bridges was taken in by the American Bridge Company in 1900, which includes the concerns read to you just now?"

MR. SEVERANCE: Do you mean the capacity?

(By request of Mr. Colton the stenographer again repeated the question.)

MR. SEVERANCE: I object to that question as wholly indefinite. It is impossible for us to know, and I am sure it is impossible for the witness to know what is meant.

MR. COLTON: Let the witness judge for himself as to that.

MR. SEVERANCE: Will you have the kindness to let me make my objection? It is impossible for the witness to know what is called for by the question, and whether it means the number of plants, the size of the plants, or the output of the plants. I object to it, further, on the ground that it is speculative, calls for the opinion of the witness and a definition of the character of the plants probably called for, I will say, by the question, and that it is not a question for expert testimony.

(By request, the stenographer again repeated the question, as follows:)

"Q. What percentage of concerns capable of fabricating heavy structural material and of building large and heavy bridges was taken in by the American Bridge Company in 1900, which includes the concerns read to you just now?"

THE WITNESS: Shall I answer?

MR. SEVERANCE: I do not want you to unless you can, and I do not see how you can. I do not know what it means. Perhaps you do.

THE WITNESS: I should say that the percentage of concerns for heavy structural bridge work was about 80 per cent. of the total.

By Mr. Colton:

Q. What do you mean by that?

Mr. Severance: What does he mean by what?

Mr. Colton: By his answer. I asked him to explain his answer.

The Witness: Assuming the total consumption of heavy work in the United States to be 100 per cent., those concerns that you have mentioned capable of doing heavy work would represent about 80 per cent. of the total.

Mr. Severance: That is in number. Do you mean in number? What are you talking about—capacity, the total number, counting each one as one, or what do you mean by the question and what does the witness mean by the answer?

By Mr. Colton:

Q. Do you mean that they would do about 80 per cent of the total of the heavy work?

Mr. Severance: I object to that as speculative, and as incompetent, irrelevant, immaterial and leading.

Mr. Colton: Answer the question.

(By request, the stenographer repeated the question as follows:)

"Q. Do you mean that they would do about 80 per cent of the total of the heavy work?"

The Witness: Those concerns were capable of performing about 80 per cent of the heavy work.

Mr. Severance: I move to strike out the answer of the witness as not responsive.

By Mr. Colton:

Q. State whether or not the concerns taken into the American Bridge Company were capable of doing about 80 per cent of that class of work which you have described as the heavy work?

Mr. Severance: I object to that as leading, incompetent, irrelevant and immaterial, as speculative, and as calling for

an opinion of the witness on a question that is not for an expert.

THE WITNESS: What is the question?

(The stenographer repeated the question.)

THE WITNESS: In my opinion they were.

By MR. COLTON:

Q. State whether or not your opinion is based on your general knowledge of the business which came to you from the different ways in which you have been engaged in the structural and fabricating business?

MR. SEVERANCE: There is no evidence in the record as to the ways in which he has been engaged in the business. I object to the question as incompetent, irrelevant and immaterial.

(By request the stenographer repeated the question.)

THE WITNESS: It did.

By MR. COLTON:

Q. State whether or not at the time the American Bridge Company was organized you were approached by any of the promoters or organizers of the American Bridge Company for any purpose?

MR. SEVERANCE: That is objected to as immaterial and indefinite.

MR. COLTON: I made it indefinite so as not to make it leading.

THE WITNESS: I was.

By MR. COLTON:

Q. Who came to see you at that time?

A. Mr. Ladd.

Q. What, if anything, did Mr. Ladd say to you concerning his plant at that time?

MR. SEVERANCE: I object to that as incompetent, irrelevant

and immaterial. Whatever Mr. Ladd said is not evidence against any of the defendants in this action.

THE WITNESS: Mr. Ladd was engaged in organizing what afterwards became the American Bridge Company, and wanted to know if we would agree to sell our business.

By MR. COLTON:

Q. What if anything did Mr. Ladd say to you concerning the number of concerns which he intended to take into the proposed company?

MR. SEVERANCE: I object to that as incompetent and irrelevant. Any statements made by Mr. Ladd are not evidence in this case against any of the defendants. The question is also objected to as leading.

THE WITNESS: He gave the names of a great many concerns that he intended to have go into this new organization.

By MR. COLTON:

Q. Did he mention the names of any concerns not contained in the list that I read to you?

MR. SEVERANCE: Objected to as incompetent, irrelevant and immaterial. That is a back-handed way of asking him if he named the ones that are in the list. I object to that as leading.

MR. COLTON: I will let my question be limited to those not in the list.

MR. SEVERANCE: I know. I say that is simply a back-handed way of asking if he named the ones that are in the list.

THE WITNESS: My recollection is that he mentioned the name of J. B. & J. M. Cornell and the Passaic Steel Company.

By MR. COLTON:

Q. Did he mention one or more of the companies which I read to you a moment ago?

MR. SEVERANCE: I object to that as incompetent and immaterial and as leading.

THE WITNESS: He did, yes, sir.

MR. COLTON: How many of those companies did he name?

A. I do not believe I can give you the list of all of them. I might be able to give you the list of some of them.

Q. Name those that you can, from recollection.

MR. SEVERANCE: The same objection.

THE WITNESS: The A. & P. Roberts; the Berlin Iron Bridge Company; Post & McCord. I think that is all that I can remember.

By MR. COLTON:

Q. What if anything did Mr. Ladd say to you in respect to competition, at the time of this conversation?

MR. SEVERANCE: That is objected to as incompetent and immaterial. Any declaration that Mr. Ladd made is not evidence against any defendant in this case. It is also objected to on the ground that the question is leading.

THE WITNESS: He explained that one of the results of this combination of interests would be the elimination of a certain amount of competition.

By MR. COLTON:

Q After the American Bridge Company was formed, and after the United States Steel Corporation was formed, state whether or not there were discussions among the independent fabricators as to the conditions existing in respect to their supply of raw rolled material.

MR. SEVERANCE: I object to that as incompetent, immaterial and leading.

THE WITNESS: There was; yes, sir.

By MR. COLTON:

Q. State what these discussions led to.

MR. SEVERANCE: I object to that on the same ground.

THE WITNESS: As a result of them, you mean?

By Mr. Colton:

Q. Yes.
A. Numerous complaints, made to the Corporation.
Q. To what corporation?
A. The Steel Corporation.

Mr. Severance: (To the witness.) You are speaking of your personal knowledge? Did you personally make these complaints?

The Witness: Yes, sir.

Mr. Severance: To what official?

Mr. Colton: You may take that up on cross-examination. He has answered "Yes."

Mr. Severance: Pardon me. Very well.

By Mr. Colton:

Q. You may go ahead.

A. We complained about the competition of the American Bridge Company.

Q. Never mind the question of Mr. Severance. He just wanted to know whether you were answering my question from your general knowledge. You may go ahead with your answer to my question.

A. That is what I am doing.

Q. Which was with respect to independents in general.

Mr. Severance: You do not want to ask him to state what somebody else said not in his presence?

Mr. Colton: I asked for the result of these discussions. Let the question be read.

(By request, the stenographer read the questions referred to, with the answers thereto, as follows:)

"Q. State what these discussions led to?
"A. As a result of them, you mean?
"Q. Yes.
"A. Numerous complaints, made to the Corporation.
"Q. To what corporation?
"A. To the Steel Corporation."

Mr. Colton: (To the witness.) Go on with your answer.

MR. SEVERANCE: The question is fully answered.

By MR. COLTON:

Q. What further resulted from the complaints made by you, if anything?

MR. SEVERANCE: I object to that as incompetent.

MR. COLTON: He has already stated he made complaints. I asked him what further resulted from those complaints, if anything.

MR. SEVERANCE: And I am objecting to that as immaterial.

MR. COLTON: All right. Go ahead.

THE WITNESS: Numerous "jollies" and not much action.

By MR. COLTON:

Q. What did you then do?

MR. SEVERANCE: The same objection.

THE WITNESS: The same answer.

By MR. COLTON:

Q. Did any meeting take place following these complaints by you?

A. I remember one meeting; yes, sir.

MR. SEVERANCE: Was that a meeting at which any of the officials of the defendants were present?

MR. COLTON: I will develop that in a moment.

By MR. COLTON:

Q. Were any members of the United States Steel Corporation or the American Bridge Company present at that meeting?

A. They were; yes, sir.

Q. Tell us about that meeting, in full, then.

MR. SEVERANCE: I object to it as immaterial.

THE WITNESS: A number of the independents, including ourselves, complained about competition of the American Bridge Company, while the price of raw rolled material had been fixed. The matter was referred to a meeting at which

Mr. Schwab was asked to preside. It was held in his office. There were a number of the independents present, including Mr. Joshua Hatfield representing the Bridge Company. Mr. Schwab tried to pour oil on the troubled waters. He finally asked the independents, in turn, if they were paying the full combination price for their rolled material.

MR. SEVERANCE: Do you mean he used that language? You are expected to state the facts, and not your general impression of them.

THE WITNESS: I am trying to state my recollection.

By MR. COLTON:

Q. Go ahead and state. There is no question about what he means by the combination price.

A. The trade always called it the combination price. It was the price fixed by the manufacturers of rolled material, or raw material, as the f. o. b. price on cars, Pittsburg. My recollection is that each of the independents stated that they were paying the full price for that rolled material.

When Mr. Schwab asked Mr. Hatfield what price he was paying, he answered using figures, and the independents commenced to smile; and it turned out that Mr. Hatfield rather let the cat out of the bag, and that he was paying one-tenth of a cent a pound below the price at that time.

MR. SEVERANCE: One-tenth of a cent a pound?

THE WITNESS: One-tenth of a cent a pound below the price at that time.

Mr. Schwab tried to coach him, to get him to change his remarks.

MR. SEVERANCE: As to what?

THE WITNESS: To coach him to get him to change his remarks; but it was too late.

By MR. COLTON:

Q. When you were in the fabricating business, did you purchase any material from the Carnegie Steel Company?

A. We did, sir; in large quantities.

Q. What was the rule in respect to material purchased for export, if any?

A. The export material was sold at a price always below what I termed the combination price.

Q. How much below, in figures?

A. It varied. It ran from five dollars a net ton to seven dollars a net ton.

Q. State what requirements, if any, were made that you should receive that particular price from the Carnegie Steel Company?

A. The material was billed at the full price, and the rebate for exportation was made on the presentation of exportation papers.

Q. What do you mean by exportation papers?

A. A copy of the bill of lading.

Q. Have you made contracts with the Tennessee Coal, Iron & Railroad Company for any purpose?

A. We did; yes, sir.

Q. What was that contract?

MR. SEVERANCE: May I ask whether that was in writing or verbal? If it is in writing, I object to his stating what it was, unless the writing is accounted for. I would like the privilege of asking him about that.

MR. COLTON: All right.

MR. SEVERANCE: Was the contract in writing?

THE WITNESS: Yes, sir.

MR. SEVERANCE: Have you the contract here?

MR. COLTON: I am perfectly willing to take it up with the contract. I will omit further questions on that and call for the contract.

MR. SEVERANCE: All right.

By MR. COLTON:

Q. Have you the contract?

A. I have not; no, sir.

Q. Do you know where any copy of the contract can be had?

A. I presume it is with Milliken Brothers, Incorporated.

MR. COLTON: You may take the witness.

CROSS-EXAMINATION.

By Mr. Severance:

Q. In reply to counsel you have classified the various fabricating plants in the country. Do I understand that the concerns making up the 80 per cent that you mentioned are embraced in the list which you designated as first class?

A. Yes, sir.

Q. You do not include any tonnage or output or capacity except of those that you designate as first class?

A. That is right; yes, sir.

Q. Did I correctly understand that your answer as to 80 per cent involved 80 per cent of the capacity of these works or 80 per cent of the actual tonnage produced at these works?

A. I said that of the entire requirements in the United States of heavy bridge and structural work, these concerns that were mentioned would produce about 80 per cent of what I would call heavy work.

Q. Do you mean that they actually put out about 80 per cent of the tonnage that was put out for consumption in the United States?

A. No, sir; I do not mean that.

Q. You mean they had 80 per cent of the capacity in the United States for the production of that character of material?

A. They were capable of producing——

Q. (Interrupting.) Answer my question. Do you mean that they possessed the actual capacity to turn out an output amounting to 80 per cent of the total capacity for that kind of output in the United States?

A. Yes, sir.

Q. That is to say, that 80 per cent of that capacity went into the Bridge Company and 20 per cent remained outside?

A. For heavy work.

Q. That is right; to produce what you call the production of a first class shop, heavy work, structural work.

What per cent of the capacity was possessed by the A. & P. Roberts plant, the Pencoyd concern?

A. Do you mean how many tons of heavy material?

Q. No; I mean to have you answer in detail what you have given by wholesale.

You have stated that, in the aggregate, these concerns that went into the American Bridge Company had 80 per cent of the capacity for the kind of material you have mentioned. Now I want to get at the details of that and have you itemize the different companies and state how much of that 80 per cent each one possessed. I ask, first, as to the Pencoyd works. What is the percentage for that company?

A. I do not believe I can give it to you that way.

Q. How can you give the whole if you do not know the detail?

A. Because I have a general knowledge of the business. Knowing the amount of work turned out, in a number of different ways, the class of work turned out, I can form an opinion without being able to give each individual instance.

Q. Do I understand you are unable to state what part of that 80 per cent of capacity was possessed by the Roberts Pencoyd plant? You cannot answer?

A. No, sir; I do not think I would reduce it to a percentage.

Q. Could you tell us the percentage, right in the same way that you did the 80 per cent, the total, that is applicable to Post & McCord, another first class concern?

A. Not the way you give it.

Q. I am giving it to you just the way you gave it to us. You stated that 80 per cent of that capacity was embraced in those companies that went into the Bridge Company. I want to know how much of that 80 per cent was attributable to the Roberts Company, the Pencoyd works, and how much to Post & McCord, and so on. You have said you cannot tell as to the Pencoyd works. Can you tell as to Post & McCord?

A. You are putting it a little differently from the way in which I put it.

Q. I am putting it exactly as you put it.

A. Excuse me. I think not. I know, generally, how much of that heavy work is used in the United States, and I can form an opinion as to what proportion of that work those people were capable of doing without, I think, going into the detail of the capacity of each works. The capacity when you

reduce it to tons is a very indefinite and misleading thing; because a big concern can do light work, while a little concern cannot do heavy work.

Q. All right. Take it your way, then. I do not see any distinction, but you think there is.

Construing your previous answer in your own way, how much of that 80 per cent belongs to Pencoyd?

A. I would have to sit down and figure it out.

Q. Well, figure it out. Take a piece of paper and figure it out.

MR. COLTON: You will permit him to take the list of the concerns in the United States——

THE WITNESS: I was going to ask you for a list of the concerns that I testified about.

MR. SEVERANCE: No. This is cross-examination. He has given, in a very easy, conversational way the total. Let us get the details.

MR. COLTON: He is entitled to have all the concerns that entered into the American Bridge Company before him at the time he figures that out.

MR. SEVERANCE: Let us see how he comes out. He is putting them down and trying to remember them.

MR. COLTON: May I hand him this list? (Referring to the list contained in the petition.)

MR. SEVERANCE: I object, on the ground that it would be assisting the witness by a memorandum that he did not make.

MR. COLTON: I read the list to him at the time he made that estimate, and it was based on this list of companies that he made that estimate.

MR. LINDABURY: You should have asked him to give the list without reading it.

MR. SEVERANCE: Because you led him once is no reason why you should do it again.

By MR. SEVERANCE:

Q. Have you finished the computation?

A. One of them, yes, sir.

Q. Will you answer the question as to the Pencoyd Plant?

A. My opinion is that they would turn out about 18 per cent. of the heavy tonnage.

Q. Have you on your memorandum certain others that you have added to that to make up the 80 per cent?

A. I have not figured it out in percentages—the others.

Q. You have not?

A. No.

Q. What others have you on the memorandum that you have put down; will you read them off, please?

A. Post & McCord, Pencoyd, Union, Trenton, Lassig and Rochester.

Q. Any others?

A. Edge Moor, Elmira, Pittsburg and Shiffler.

Q. Is that all?

A. I think that is all.

Q. Answering the question in the same way, give the percentage as to Post and McCord?

A. (After figuring.) About 11 per cent.

Q. Give the percentage as to Elmira?

A. (After figuring.) Approximately 12 per cent.

Q. Union?

A. (After figuring.) Approximately 8 per cent.

Q. Edge Moor?

A. (After figuring.) Approximately 12 per cent.

Q. Lassig?

A. (After figuring.) Approximately 8 per cent.

Q. Shiffler?

A. (After figuring.) Approximately 11 per cent.

Q. Rochester?

A. (After figuring.) Approximately 8 per cent.

Q. Pittsburg?

A. (After figuring.) I find that there is a slight mistake in my percentages.

Q. I thought so, as long as you have 88 per cent. and there are several companies you have not named.

MR. COLTON: Do you know that there are several companies he has not named which do heavy work?

MR. SEVERANCE: Certainly. I have the list right in front of me.

MR. DICKINSON: The witness has not given a final answer yet.

MR. SEVERANCE: Yes he has, as to these companies named.

By MR. SEVERANCE:

Q. Go on and give us Pittsburg. Shrink some of them, if necessary.

A. Approximately 12 per cent.

Q. Give us Trenton, New Jersey?

A. (After figuring.) Approximately 8 per cent.

Q. That makes 108 per cent. out of a total of eighty, and you have not mentioned Keystone, which you named in answer to Mr. Colton. What is the percentage of Keystone; how much can we add to the 108 per cent. for Keystone?

A. Keystone, I should say about 8 per cent.

Q. That makes 116 per cent. Now, when it turns out that you have 116 per cent. instead of 80 per cent., do you want to make any corrections?

A. Yes, I would have to.

Q. Correct it down, then. Do you want to shrink it horizontally, or specifically?

A. I have done this approximately.

Q. Oh, yes. You said you wanted to make a correction. Have you made your correction yet?

A. Yes.

Q. All right, read off your list as revised.

A. Approximately my estimate is as follows:

Post & McCord	9 per cent
Peneoyd Company	15 per cent
Union	7 per cent
Trenton	7 per cent
Lassig	7 per cent
Rochester	7 per cent
Edge Moor	11 per cent
Elmira	11 per cent
Pittsburg	10 per cent
Shiffler	9 per cent
Keystone	7 per cent
	100 per cent

Q. How much does that add up?

A. 100.

Q. Then you are only 20 per cent. over the eighty per cent?

A. Then I misunderstood your question. I understood you to ask what proportion of the heavy work did Pencoyd do of the total capacity of doing heavy work in the American Bridge Company?

Q. Oh, no, I asked you as to the entire United States.

A. I thought you asked me as to the American Bridge Company.

Q. Very well, if you took it that way. You say, then, that the Pencoyd Company had 15 per cent. of the 80 per cent. of the country. That is what you mean, now, by your revised figures?

A. Yes, sir.

Q. That would be 12 per cent of the country?

A. Yes.

Q. The Keystone Company, you say had only 7 per cent. Do you think that the Pencoyd was twice as big as the Keystone or over twice as big?

A. For doing heavy work, this is.

Q. Yes.

A. Yes, I think so.

Q. It was more than twice as big?

A. Yes, sir.

Q. You think that Elmira was over one and one-half times as much as Keystone?

A. I should think so, for heavy work.

Q. And that the Union was fully as large?

A. Yes.

Q. And the Rochester fully as large as Keystone?

A. Yes.

Q. Where did you get that information; did you visit these plants?

A. Oh, yes. I have been to them.

Q. To all of them?

A. Nearly all.

Q. Which ones are there that you did not visit?

A. Keystone, Pittsburg and Shiffler.

Q. But you feel entirely competent to base an opinion as to the capacity of Shiffler, Keystone and Pittsburg upon your information without having visited them, do you?

A. I told you that it was only my general knowledge.

Q. Where did you get that knowledge?

A. From the business.

Q. Just a few questions about some of the outside concerns.

There were other companies that did not go into the bridge company that you regard as in the first class, were there not?

A. Yes, sir.

Q. How would you class the Phoenix?

A. First class.

Q. And the King?

A. First class.

Q. Jones & Laughlin?

A. They were not in it.

Q. The Cambria?

A. They were not in it. I mean by saying that they were not in it that they were not in the structural business.

Q. What percentage of the total business of the country—this is what I intended to ask you before, and I will ask you to please note my question—was possessed by the Phoenix at that time. You have attributed 80 per cent of the total capacity of the country, in this particular kind of work, to the companies that went into the American Bridge Company, have you not?

A. Yes, the heavy work—not all work.

Q. Yes, I understand. I am addressing this to the same thing that you addressed your percentage to. That left twenty per cent outside?

A. Yes.

Q. I want to know now what percentage of the total capacity of the country—not of the twenty per cent, but of the total of the country—was possessed by the Phœnix at that time?

Mr. Dickinson: You mean that class of work?

Mr. Severance: Yes. I want him to answer on the same basis that he gave his percentages to Mr. Colton.

A. (After figuring.) It would take me quite a time to figure this out.

By Mr. Severance:

Q. Go ahead and figure it. There is no hurry.

A. (After figuring.) These proportions which you want me to figure out are of the whole country; that is the way you want these proportions?

Q. I have asked for but one so far, and that is the Phœnix.

A. I ought to have this overnight.

Q. I think it is more satisfactory to get it from you now. If you can give us that one I think we can hasten the others a little.

A. (After figuring.) That would be about 12 per cent.

Q. Of the entire country?

A. Of the entire country.

Q. How did King compare with Phœnix?

A. Very much smaller.

Q. How much smaller—one-half as large?

A. Oh, less than that.

Q. One-third as large?

A. Certainly not over one-third—less.

Q. About one-quarter as large?

A. Yes, I should say so.

Q. Just about one-quarter; do you think that is about right?

A. Yes.

Q. How about the Boston Bridge Works' output?

A. It was very small, for heavy work.

Q. As compared with the Phœnix, what percentage?

A. I should say one per cent.

Q. Do you mean one per cent of the total?

A. Yes.

Q. You do not mean one per cent of the Phœnix?

A. No; one per cent of the total.

Q. That would be one-twelfth of the Phœnix. How about Milliken Brothers? You were familiar with their business, were you not?

A. Yes; I ought to be.

Q. How did they compare with the Phœnix?

A. I should say about two per cent.

Q. Two per cent of the total?

A. Yes. I am speaking about heavy work all the time.

Q. I understand you. How about the Pennsylvania Steel Company?

A. I should think that would be about 4 per cent.

Q. And Brown-Ketchem & Company?

A. I do not think over one per cent.

Q. The Hay Foundry Company?

A. I would not put them in the heavy class.

Q. How about Cornell?

A. I would give him about one per cent.

Q. How about Cambria?

A. They were not in the business.

Q. Are you sure?

A. I am speaking about the year 1900.

Q. That is the time, 1900?

A. They may have had a little bit of a shop, but they did not do any work.

Q. How about the McClintic, Marshall Company?

A. My recollection is that McClintic-Marshall were just about starting in in 1900.

Q. But they were in business?

A. I doubt if they amounted to much.

Q. How about Riter-Conley?

A. Riter-Conley did some structural work, but most of their business was blast furnace work, standpipes and water pipes, and that class of work.

Q. That is heavy work, is it not?

A. I do not classify that as strictly structural work, any more than you would boiler work or boiler settings or bridges or bolts.

Q. How much would you say would be the percentage of that kind of work you are talking about attributable to Riter-Conley Company?

A. I would not say it would be figurable.

Q. How about the Fort Pitt Company? That was a good concern, was it not?

A. I do not think they were very large in 1900.

Q. What proportion of the business do you think they did then?

A. I am not sure; I could not figure any percentage.

Q. How about the Penn Bridge Company?

A. They were a second rate concern.

Q. Oh, they did not do any large business. What companies that went into the Bridge Company, would you say were about the same size as the Phoenix, offhand?

A. A. & P. Roberts Company.

Q. That is the only one; you think they were about the same size, do you?

A. Yes, sir.

Q. Do you think the Rochester Company was about the same size as yours?

A. The Rochester Bridge Works?

Q. The one you testified about. Did they have about the same amount of business as the Milliken Brothers?

A. In a way they could do some heavier work than we could, but I do not think their total output was quite as large as ours.

Q. It was not?

A. I do not think so—the total output.

Q. What percentage did you give to Milliken Brothers?

A. About two per cent.

Q. And the Pennsylvania Steel Company four per cent. Is that right?

A. Yes.

Q. You think your total output was a little greater in this class of stuff than the Rochester concern?

A. No; I said our total output was greater than Rochester.

Q. I am asking you now about this particular line of business, altogether.

A. The heavy work?

Q. Yes.

A. I should think Rochester was greater than we were.

Q. How much greater?

A. A good deal larger.

Q. Now, Mr. Milliken, you have added up 24 per cent out of a total of 20 per cent in this case, and you gave a total of 116 per cent out of a total of 100 in the other case.

A. I told you I did it roughly. I did not intend to be exact. All these percentages are approximate.

Q. But you think you have covered now the entire output of the United States in this particular line of goods, and that you have divided it up substantially correct?

A. According to my belief.

Q. I want to ask you about some other companies. You know the Jackson Architectural Iron Works of New York, or did you know them at that time?

A. I did.

Q. What was their business?

A. They had a foundry; they did castings, they did stairs, railings, grates, that is known as ornamental iron work; and they did structural steel work for buildings.

Q. Was that heavy steel?

A. No, sir. They did not manufacture any heavy steel.

Q. They did steel structural work, did they?

A. Yes.

Q. And manufactured structural steel?

A. They punched beams and channels and angles.

Q. I mean, they did the fabricating?

A. When it came to riveted work, I think they bought that.

Q. Were they in competition with you and others in structural steel business?

A. Yes.

Q. And bridges also?

A. No; I never heard of them doing any.

Q. The Hay Foundry & Iron Works, at Newark?

A. Yes.

Q. You know it?

A. Yes.

Q. They were in competition?

A. Yes.

Q. Levering and Garrigues?

A. Yes.

Q. Were they in business in competition with you then?

A. Yes.

Q. The Passaic Rolling Mills?

A. Yes.

Q. What kind of stuff did the Passaic Rolling Mills get out?

A. They had a rolling mill at Patterson, and they had a small bridge mill.

Q. Did they put out any heavy work?

A. Some, yes, sir.

Q. And their output could be added to these others included in the twenty per cent, could it not?

A. They came into the market so seldom in turning out any heavy work that I should not give them any percentage in my method of arriving at these percentages.

Q. By your method you would not give them any percentage, although, as a fact, they were manufacturing it and selling it?

A. Very seldom they sold it.

Q. How about the Pottsville Iron & Steel Company, afterwards known as the Eastern Steel Company, I think?

A. The Pottsville Iron & Steel Company was controlled by Mr. Atkins. They failed and went out of business; but I cannot tell you the date.

Q. They were in business in 1900, were they not?

A. I am not quite sure about that. I should not be at all sure that they were in business then.

Q. The Cambria Steel Company you have referred to, but you did not give their percentage?

A. No.

Q. They were competitors of yours in the structural iron and bridge business, were they not?

A. No, not competitors; we bought from them.

Q. They did not do any fabricating?

A. In 1900 I do not believe they did any except for cars, or maybe something like that.

Q. And do you know a concern called Megquier & Jones, of Portland, Maine?

A. Yes, sir.

Q. Were they competitors in that business at that time?

A. They were never competitors of ours, sir.

Q. Were they in the structural steel business at that time?

A. In a small way.

Q. They were competitors of the New England companies, were they not?

A. I imagine they were; they were located in Portland, Maine.

Q. Do you know the Eastern Bridge & Structural Company of Worcester?

A. I know of them, yes, sir.

Q. Were they in the highway bridge and structural business?

A. I cannot say as to 1900.

Q. You cannot say about that?

A. I am not sure.

Q. How about the Hawkins Iron Works of Springfield?

A. He was in business in 1900.

Q. They did bridge work for the Boston & Albany, did they not?

A. I think they did some work for the Boston & Albany.

Q. They were in the structural business?

A. In a small way.

Q. Do you know the Buffalo Bridge & Iron Works?

A. No; I do not know them.

Q. Do you know the Owego Bridge Company, of Owego, New York?

A. I cannot say that I know of them.

Q. Did you not know of them as being in business?

A. I knew of the name, but we did not go into the highway bridge business very much, and they were a highway bridge concern.

Q. Do you know the Allentown Rolling Mills?

A. Yes; I knew them.

Q. And they did a structural business?

A. I would not designate it by that name.

Q. The Fort Pitt I asked you about before?

A. I do not think they were in business in 1900; I am not sure.

Q. You know the Canton Bridge Company, of Canton, Ohio?

A. I have heard of them.

Q. What business did they do?

A. I think almost all highway bridge work at that time.

Q. Do you know the Massillon Bridge Company, Massillon, Ohio?

A. The same answer to that question.

Q. The Riverside Bridge Company, Wheeling, West Virginia?

A. I do not know them.

Q. Did you not know of them at that time?

A. No, sir.

Q. Did you know the Chicago Bridge & Iron Company, Chicago, Illinois?

A. I knew of them. I do not know whether it was in 1900 or a little later.

Q. You know the Penn Bridge Works at Beaver Falls, Pennsylvania?

A. I have told you about them.

Q. That is the same one?

A. Yes.

Q. Now, take Rapp & Spidel. You know them?

A. Yes.

Q. What was their business?

A. I guess they were brokers.

Q. The New England Structural Company?

A. Yes.

Q. What was their business?

A. I think they were an offshoot of Norcross Brothers, the builders, and did mainly Norcross' work until, in later years. I think they have branched out and have done some structural work.

Q. And the Passaic Company you have already spoken of?

A. Yes.

Q. Can you give the total tonnage of this heavy work that you have been testifying about in the United States in 1900, or approximately the total tonnage?

A. I should think roughly that it would be somewhere about 400,000 tons.

Q. You spoke about an interview that you had with Mr. Schwab and Mr. Hatfield, at which there was some talk about the American Bridge Company securing their steel at a lower price than other fabricators. That is what you said, is it not—one-tenth of a cent less, I believe you said?

A. Yes.

Q. Who requested that meeting, and why was it held?

A. My recollection is it was held in Mr. Schwab's private office. I think that was at 71 Broadway. I am not sure whether it was 71 Broadway, or 111 Broadway.

Q. When was it?

A. I really cannot fix the date.

Q. Give it to us as nearly as you can?

A. It was after Mr. Schwab had left the presidency of the United States Steel Corporation, and before we started to build our open hearth steel plant and rolling mill at Staten Island. That is as near as I can give it to you.

Q. What did Mr. Schwab have to do with this thing if he had left the Steel Corporation?

A. He was asked to see the independents and discuss the matter with them.

Q. Who were present besides Mr. Schwab and Mr. Hatfield and yourself?

A. I do not know that I can remember all the people.

Q. Just give us the names of those you do remember.

A. I think Mr. Marshall, of McClintic-Marshall, was there.

Q. Who else?

A. I think there was a representative of the Phœnix Bridge Company. I am not quite sure about that.

Q. Do you know who it was?

A. No.

Q. Who else was there?

A. I think Mr. Hay, of the Hay Foundry was there.

Q. Who else?

A. Mr. Hatfield.

Q. You have named Mr. Hatfield and Mr. Schwab and yourself.

A. Yes.

Q. Anyone else?

A. There may have been others; I do not remember.

Q. Was there more than one meeting of that kind or only one?

A. Only one.

Q. You said that nothing came of that meeting? I think

you so stated, did you not—that there was no result except that you were given a jolly?

A. I believe that was all we got; I saw no other result attained.

Q. Who handed you this "jolly"—was it Mr. Schwab?

A. Yes, sir.

Q. He was not at that time an officer of the Steel Corporation?

A. No, sir.

Q. At whose suggestion was this meeting held?

A. I could not tell you at whose suggestion it was.

Q. Did you call it?

A. No.

Q. Who invited you to attend it?

A. If I am not mistaken I think it was Mr. Baker, of the Carnegie Company.

Q. What is his position, if you know?

A. He is in the sales department.

Q. Were there any representatives of Jones & Laughlin or any other of the large steel manufacturers present?

A. I do not remember any of them.

Q. Nobody but Mr. Schwab and Mr. Hatfield and yourself and these other gentlemen you have mentioned?

A. That is all I remember.

(Thereupon, at 4:05 o'clock p. m., an adjournment was taken until Thursday, June 20, 1912, at 10:15 o'clock a. m.)

TWENTIETH DAY.

Room 720 Custom House,
New York, N. Y.,

Thursday, June 20, 1912.

The hearing was resumed at 10:15 o'clock a. m. before Special Examiner Henry P. Brown.

Appearances the same as heretofore noted.

FOSTER MILLIKEN,

the witness under examination when the adjournment was taken, resumed the stand for further

CROSS-EXAMINATION,

By Mr. Severance:

Q. Mr. Milliken, in 1900 was your company doing a bridge business, or only a structural business?

A. Some bridge business.

Q. Of what character?

A. Some railway and some highway work.

Q. Will you kindly name some railway bridges that you built in or prior to 1900?

A. Of course I cannot be sure about the year.

Q. I do not ask you to state the specific year; but I say in 1900 or prior thereto. The question to which I desire to direct your attention is whether or not up to that time you had been engaged in the railway bridge business or whether that was a subsequent development of your business.

A. I do not know that I can fix the year. It is a very difficult thing.

Q. You would not undertake, would you, to testify positively that in or prior to 1900 you had built any railway bridge?

A. Why, I am sure we had built some, yes, sir.

Q. Can you name one?

A. Well, I think a bridge for the Central Railroad of New Jersey, at Phillipsburg.

Q. When did you build that?

A. I cannot name the years.

Q. Are you sure it was as early as 1900?

A. I am positive it was as early as 1900.

Q. Can you name any others?

A. I do not remember now. It is a long time since I have ever thought of the subject.

Q. This is true, is it not: that whether or not you had built any bridges before that, it was a very minor part of your business up to that time?

A. Yes; I should say that is so.

Q. What year did your firm cease to represent the Phoenix Iron Works?

A. I cannot give you the exact date, but I think it was along about 1888.

Q. Then, as I understand you, the firm of Milliken & Smith was first organized?

A. No. You are mistaken. The firm of Milliken & Smith was organized—it must have been in the Seventies.

Q. I misspoke.

A. Yes.

Q. After ceasing to be connected with the Phoenix people, did not Milliken & Smith go into business on their own hook?

A. No; Milliken, Smith & Company, it was then, ceased to exist.

Q. Oh, it did?

A. Yes. Mr. Smith was a former partner of my father.

Q. And he retired?

A. And my brother's going into the firm made it Milliken, Smith & Company. Then I joined the firm, and it simply continued as Milliken, Smith & Company. Then, when the partnership was dissolved and Mr. Smith went out, it became Milliken Brothers, my brother and myself.

Q. I understand. But I say did not Milliken, Smith & Company represent the Phoenix Iron Works for a time?

A. Yes, sir.

Q. Did Milliken, Smith & Company do business on their

own account after ceasing to represent the Phoenix Company, or was it always Milliken Brothers?

A. No. When we ceased to be agents of the Phoenix Iron Company, it was then that the firm of Milliken, Smith & Company ceased.

Q. Oh! It was?

A. Yes, sir.

Q. What was the first name? Milliken Brothers? After you went into business on your own account and ceased to represent the Phoenix Company, what was the name of the firm?

A. Milliken Brothers. My late brother and myself.

Q. Yes; and that continued down to 1907?

A. Yes.

Q. Were you incorporated at some time?

A. Yes; we were incorporated in 1905.

Q. You were incorporated as Milliken Brothers?

A. Milliken Brothers, Incorporated, was the title.

Q. And, as Milliken Brothers, Incorporated, you did business down to the time of the receivership; which was when?

A. Until the time of the receivership, which was June 11, 1907.

Q. You were connected with the company up to that time?

A. I was connected up to that time and after that time.

Q. During the receivership?

A. Yes, sir.

Q. Previous to the receivership, what was your part of the business? What did you do? What were your functions?

A. Well, I was in charge of getting out the work, looking after the deliveries, and things of that kind.

Q. You had charge of the bidding for the work?

A. Yes, sir.

Q. You had charge of the shops?

A. Yes.

Q. So that you had charge of the business relative to the fixing of prices and the production of the fabricated goods?

A. Yes, sir.

Q. Did your brother have anything to do with the business?

A. Oh, yes, sir.

Q. What did he do?

A. He was largely engaged in securing business; the financial end of the business; and we conferred on all subjects.

Q. You spoke of yourself as having charge of the making of contracts, I understood you to say. Your brother also did that?

A. No; you asked, as I understood you——

Q. About the bidding.

A. About the bidding; the fixing of prices.

Q. Yes. You did that?

A. Yes, sir.

Q. And your brother had nothing to do with that?

A. I cannot say that he had nothing to do with it. He did not take as important a part in it as I did.

Q. What do you mean by saying he had to do with securing business, when you say that you looked after the bidding?

A. After the bid was made out, the cost of the work was established, then he generally looked after securing the work.

Q. I see. You put in the bids and he saw that they were accepted?

A. I made up the figures and he attended to getting the work, securing the work.

Q. You made the figures and then he saw the people, did he?

A. Yes, sir.

Q. And made such arrangemets as could be made to get the business?

A. Yes, as a general rule.

Q. He would be the one who would come more in contact with competitors rather than yourself; that would be true, would it not?

A. I did not understand that question.

Q. I say in view of the fact that your brother had charge of getting the work, as you say, he was the one rather than yourself who was brought most in contact with the competitors of Milliken Brothers in connection with securing business?

A. As a rule, yes.

Q. Up to 1900, was it not a fact that your business was confined to the Atlantic Seaboard territory, together with some business on the Pacific coast and some foreign business?

A. I should hardly put it "some foreign business." I think the foreign business was a very important part of it.

Q. But I say so far as this country was concerned your business was on this seaboard, largely in the metropolitan district, the New York district, and on the Pacific coast, was it not?

A. Yes, and export business.

Q. But I am now asking you about your business in this country?

A. Yes.

Q. You did not do business in the interior of the country to any extent?

A. Not very much, no, sir.

Q. How much business did you fabricate in your shop in 1900; what was your tonnage?

A. I do not know that I can give you that exactly. I have not seen the records for a great many years.

Q. Give us your best knowledge. You gave some figures here the other day on total tonnage?

A. Well, I should think in the year 1900 it was about from 25,000 to 30,000 tons total output.

Q. How much of that was what you call heavy steel?

A. In 1900 a comparatively small proportion of that was what I call heavy steel.

Q. Did you afterwards have a larger proportion of what you would call heavy steel?

A. At that time my recollection is that we bought a good deal of our heavy steel from outside concerns.

Q. From whom did you buy it?

A. We bought a good deal, as I remember, from the Elmira Bridge Company.

Q. Did you buy any from Post & McCord?

A. I do not remember buying any heavy work from Post & McCord. I think we bought some light work from Post & McCord, when we were too busy to turn it out.

Q. Will you be kind enough to define what you mean by heavy work?

A. I define heavy work as meaning the heavier sections of raw material in its finished state, weighing a number of tons, thick pieces, requiring heavy punching, large sized rivets, wide gamp riveters, heavy shears, heavy facing tools, and then again heavy cranes to lift those finished pieces. That would constitute heavy work.

Q. You have ended up, I am afraid, where you started in; you have simply said that heavy work is heavy work. How large do you mean, how large bolts and how large rivets? You simply say now that by heavy material you mean heavy material, and that does not define it to a layman. I am a layman.

A. Do you mean in a building or a bridge?

Q. You testified the other day as to percentages; you gave yearly production of heavy material, what you call heavy material put out by the different shops. Now I want to know what you meant by that.

A. But in a building it would be one type of construction and in a bridge it would be another.

Q. That all may be, but what did you have in mind when you separated the sheep from the goats? When you were here three days ago you stated the percentage of capacity of different shops for heavy material, as you called it.

A. I had in mind both bridges and buildings.

Q. What was the definition between heavy and light?

A. In a building a heavy column would be a heavy column, in those days, I should say weighing about ten tons.

Q. Well, go on.

A. And a girder would be one weighing as much as 25 tons. In a bridge it would consist of large built up members and in those days most of the bridges, railroad bridges particularly, were made of I-bars, and there we would come into the size of the I-bars, the size of the pins——

Q. But you are not giving us the sizes. I want to get from you, if possible, some definite, specific figures, from which we could check you up. For instance, suppose we want to find out whether you are correct in your estimate

that you gave here the other day. You left it in an indefinite state, because you simply said heavy material. You state now, as I understand, that in buildings a girder weighing 25 tons would be heavy work?

A. Yes; in those days.

Q. And something else you said would be heavy work if it weighed ten tons?

A. Yes, a column.

Q. A column weighing ten tons would be heavy work?

A. Yes.

Q. How long would those have to be? Would it make any difference?

A. Yes, sir.

Q. Distinguish further, then. How long would a column have to be or how long would a girder have to be to come within your classification of heavy material?

A. In the column you would not necessarily have it any great length, because there you come into the question of facing facilities, punching facilities, shearing facilities——

Q. Give it to us in inches or feet?

A. It is not definable in inches or feet or pounds or ounces.

Q. Is it definable in thickness?

A. No, it is not. What might be a certain thickness for one shop, that is, what might be the limit of their punching facilities, would not be the limit for another shop.

Q. That is not what we are talking about now—the limit of the shop—but we are talking about what constitutes heavy material and what does not. I ask you about the thickness, how thick a column must be in order to constitute heavy material.

A. Different material has different thickness.

Q. I understand that, but what is heavy and what is light?

A. But the same column might have thin pieces, and have heavy pieces too.

Q. Will you give me some kind of a concrete statement as to what you mean by a heavy column?

A. I have tried to.

Q. You say it must weigh ten tons. Is that all you can

give—without regard to its length or thickness or height or anything else?

MR. COLTON: Did he say that a column must weigh ten tons or a girder must weigh ten tons?

MR. SEVERANCE: He said a column. I am quoting him correctly.

MR. COLTON: I thought he said a girder must weigh ten tons and a column five tons.

MR. SEVERANCE: No; he said a girder must weigh 25 tons in order to be heavy material.

The WITNESS: Yes. That is correct.

MR. SEVERANCE: Please read the last question.

(The Stenographer repeated the question as follows):

"Q. You say it must weigh ten tons. Is that all you can give—without regard to its length or thickness or height or anything?"

The WITNESS: Yes, that is all I can give.

By MR. SEVERANCE:

Q. Is it composed of one piece or more than one piece?

A. It may be composed of twenty pieces or a hundred pieces.

Q. And it may be made by riveting them together?

A. Yes, sir.

Q. So that, as far as the component parts making this up are concerned, it does not matter how heavy they are, and it may take a hundred to make up this ten tons, as you say?

A. Yes.

Q. You have made your classification on the basis of this tonnage—that a piece of fabricated material that weighs ten tons used for a column is heavy, and weighing less than that it is not heavy material; is that right?

A. Not altogether, no sir.

Q. Let us go on and make your classifications, then. I took your definition as you gave it. Now, do you want to give another?

A. No; you asked me what I would classify as heavy material of that date.

Q. That is what I ask you.

A. And I said ten tons; but for some reason you might get a piece weighing less than ten tons that would have other requirements that would put it in the class of heavy material.

Q. Go on and state what those requirements are.

A. You might have a piece that weighed a great deal less, that some member of was two inches thick, and the shop would not have facilities for getting it out unless it was a shop rigged out for heavy material.

Q. Now, do I correctly understand you that all material two inches in thickness is heavy material?

A. No, sir.

Q. Why did you introduce the words "two inches," then, if that has nothing to do with it.

A. Because that has something to do with the shop tools and the shop practice in certain cases.

Q. And the shop practice differs in different shops?

A. Yes.

Q. So what would be heavy material in one shop would not be heavy material in another shop; is that true?

A. Yes; and it is also true that you might have a heavy piece—

Q. That is sufficient, if you say that is true.

MR. DICKINSON: Let him finish his answer.

MR. SEVERANCE: I thought he had finished it.

The WITNESS: No; I did not finish it.

By MR. SEVERANCE:

Q. Go on and finish it, then.

A. (Continuing). A heavy piece, so far as thickness goes, that could be gotten out in a light shop, but it depends on what that piece is, what it is used for.

Q. That, however, would not change your classification of these plants, would it—the fact that a thick piece might be gotten out in one of these light shops?

A. My classification is made as a whole and not as to individual pieces.

Q. Yes, I heard you say so. As I understand you, this column weighing ten tons may be 150 feet long, or it may be ten feet long, it makes no difference; is that right?

A. I never heard of a column being 150 feet long.

Q. Well, without reference to length?

A. Yes, sir; without reference to length.

Q. You say girders, to be heavy material, must weigh 25 tons. Is that without reference to the length; may they be 100 feet long or ten feet long?

A. I do not remember any 100 feet long, in 1900.

Q. Think, and see if you do not. Were not there girders that long in 1900?

A. I do not think they were furnished in one piece. They may have been furnished in sections and erected in pieces.

Q. How long are girders made now?

A. I really cannot tell you.

Q. Are they made as long as 100 feet now?

A. Oh, yes, sir.

Q. How long did they make them in 1900?

A. I could not tell you.

Q. You do not know that?

A. No, sir.

Q. You, who were in charge of a fabricating plant and familiar with these plants all over the country, cannot answer that simple question?

A. I say I do not remember any in 1900 as long as that.

Q. I ask you how long they did make them then.

A. I cannot tell you offhand.

Q. Are you able to give any further definition of what you mean by heavy material, than the ones you have given in answer to my questions, as distinguished from light materials?

A. Simply as it bears on the structures themselves, either bridges or buildings.

Q. I am talking about the capacities of these shops to turn out material. That is what you were interrogated upon the other day. I am trying to find out what you had in mind when you made the differentiation between heavy and light material. Are you able to give any further testimony showing how the two classes are divided than you gave this morning?

A. I have in mind the structures themselves.

Q. What structures?

A. Buildings and bridges that were built and constructed about that time, as near as I can remember.

Q. What buildings and structures built about that time; what were the ones that you had in mind—name them.

A. Not any in particular, but just the general knowledge.

Q. You stated a moment ago, Mr. Milliken, that you had in mind the structures that were built about that time; what were those structures? Can you tell or can you not tell what they were, that you had in mind?

A. I did not particularize any particular structure.

Q. Then you based your calculations on something that you had in your mind and you are not able to tell us what you had in your mind?

A. I said it was my general knowledge of the business.

Q. Yes; I know; your general knowledge. From what did you get that general knowledge?

A. From my connection with the business, knowing where the work was being placed, who executed it, the different contracts, reading the technical papers, and from the structures as finished and erected, and reading in the technical papers the arrangement and shop equipment of the different plants.

Q. Did you read Swank's statistics?

A. I did.

Q. They were reliable, were they not; so regarded in the trade?

A. Yes; as a general rule they were, yes, sir. I always kept a copy on my desk and constantly consulted it.

Q. In what year did you build your plant in South Brooklyn?

A. I cannot give you the exact date. I think it was along about in 1893 or 1894. I am not sure about it.

Q. When did you build your plant in Staten Island?

A. My recollection is that that was started in 1902.

Q. When was it completed?

A. My recollection is that it was completed some time in that year.

Q. You stated, in answer to counsel for the Government the other day, that you carried on your business "in Brooklyn until 1902, when we built a larger plant on Staten Island?"

A. Yes, sir.

Q. That was correct, was it?

A. To the best of my recollection, that is correct.

Q. I find in Swank's book for 1903, entitled "Supplement to the Iron and Steel Works Directory," which has been used here by counsel, on page 13, the following:

"Milliken Brothers Iron Works: Milliken Brothers, 11 Broadway, New York City. Works at Henry Street Slip, South Brooklyn, New York. Railroad and highway bridges and iron and steel buildings. Annual capacity 36,000 tons. Also make ornamental iron work. May erect another bridge-building plant on Staten Island."

That was the first of January, 1903, which is the year after you say you built on Staten Island. Having your recollection refreshed by this, if this does refresh your recollection, do you still think you built your plant in 1902 on Staten Island?

A. I may be mistaken about the date. I am not infallible on dates. But that statement may also be accounted for by the fact that we did not dismantle our Brooklyn plant when we started to build the Staten Island; and my recollection is that for a short period of time both plants were running at the same time in order for us to keep our business going. That may account for that statement. It may not have been finished in January, 1903.

Q. The language as I read it to you is:

"May erect another bridge-building plant on Staten Island," indicating that you had not then erected it?

A. I think that is a mistake?

Q. You think that is a mistake?

A. Yes, sir.

Q. What was your tonnage in 1901? I asked you about 1900.

A. I think it was the same as 1900.

Q. About 25,000.

A. Somewhere around there.

Q. In 1902 about how much was it?

A. I think I could best answer that question by saying that there were slight additions made to the Brooklyn plant from time to time that tended slightly to increase the tonnage; but a radical change in the tonnage did not take place until we went to Staten Island.

Q. That is, you mean a radical change in the tonnage that you fabricated yourselves?

A. Yes, sir.

Q. But, in addition to the tonnage that you fabricated yourself, while you were in Brooklyn you had tonnage fabricated for you at other plants?

A. Yes, sir.

Q. What I have particularly in mind now is your output; that is, your business. Can you tell what your aggregate business was in 1901, in tons?

A. No, sir; I could not.

Q. Is it not a fact that your gross annual business increased steadily, with possible fluctuations, from 1900 down to 1907, when you went into the hands of a receiver? Were you not, just before that, doing the largest business you had ever done?

A. Generally that is correct.

Q. That is true, is it not?

A. Yes, sir.

Q. And your business had been a profitable business during those years, had it not?

A. Yes, sir.

Q. And the cause of the failure of your company was not because your contracting and fabricating business was not profitable, but because of the fact that your architect, or whoever designed it for you, had underestimated the cost of the rolling mill you had to build?

A. Yes.

Q. That was the sole cause of your difficulty?

A. Yes.

Q. The business itself had been prosperous?

A. Yes, sir.

Q. And your business was competitive with the American Bridge Company, was it not, to a large extent?

A. In this country, yes, sir.

Q. Your business was also competitive with the Phoenix, was it not?

A. Not very much with the Phoenix.

Q. Was it not, in this territory down here? Was not the Phoenix in this territory?

A. No, sir.

Q. What other companies did you compete with besides

the American Bridge Company, during these prosperous years?

A. The Jackson Architectural Iron Works, J. B. & J. M. Corneli, Levering & Garrigues, Hay Foundry & Iron Works and some others.

Q. You spoke, a moment ago, in the list of these companies of Levering & Garrigues. How long had they been in business?

A. I cannot tell you.

Q. Well, a long time? It was long prior to 1900?

A. My recollection is that they were originally in Philadelphia, and very seldom came into this market. Mr. Levering died, and Mr. Garrigues came over to New York, and I guess the bulk of his business was done in New York City, and they built their plant at Dunellen, New Jersey.

Q. Where is their plant?

A. Dunellen, New Jersey.

Q. It was built prior to 1900?

A. I do not think it was, no, sir. I will not be sure, but I think they were still operating in Philadelphia in 1900.

Q. They had a plant there?

A. Yes, sir; a small plant.

Q. Is it not a fact that Levering & Garrigues were engaged in the construction of very heavy structures in 1900 and prior thereto?

A. I should say not.

Q. You do not think they were?

A. I do not think so.

Q. And they were not turning out heavy material in their shop?

A. No, sir.

Q. (Continuing). Wherever their shops may have been located?

A. That is correct.

Q. You mean that they had never done that prior to 1900, or that they were not doing it in the year 1900?

A. They may have done some heavy work; but I think I am correct in saying that they did not turn it out in their shops. They may have bought it from somebody else.

Q. Were they not competitors with you in erecting the heavy work in this district?

A. Not very much in 1900 as I recollect it.

Q. When did they begin to be? In 1901?

A. No. I should say it was not before 1904 or 1905.

Q. That is your best judgment?

A. That is my best recollection; but it is very hazy.

Q. You gave certain estimates when you were on the stand the other day, about the capacity for turning out heavy work possessed by these plants in 1900, particularly the plants that were acquired by the American Bridge Company, which you said constituted 80 per cent of the capacity of the country for that class of work, as I understood you. That is what you said?

A. Yes, sir.

Q. You divided that up into 116 per cent. first, and then scaled it down to 100 per cent, distributing it among the various plants; and in that second distribution, which aggregated the 100 per cent., of the 80 per cent., you stated that the Lassig plant had about 7 per cent. Where was the Lassig plant located?

A. My recollection is that it was in Chicago.

Q. Will you describe that plant? You visited it, did you not?

A. No, sir.

Q. You stated, the other day, that you visited all of these except three at Pittsburg. You did not visit the Lassig plant?

A. I do not think I so stated.

Q. That is what you said.

A. I did not mean to so state.

Q. If you did so state, you desire to withdraw that statement, do you?

A. I do, yes, sir.

Q. So that there will not be any question about it, on page 1609 of the printed record you testified as follows:

"Q. Where did you get that information; did you visit these plants?

"A. Oh, yes. I have been to them.

"Q. To all of them?

"A. Nearly all.

"Q. Which ones are there that you did not visit?

"A. Keystone, Pittsburg and Shiffler."

A. My recollection is that I was cut off before I finished my answer, and did not complete the full list of those that I had not visited.

Q. You were not cut off, Mr. Milliken, and I doubt very much if you so remember. Your answer was complete. The next question after it was this:

"Q. But you feel entirely competent to base an opinion as to the capacity of Shiffler, Keystone and Pittsburg upon your information without having visited them, do you?

"A. I told you that it was only my general knowledge."

That shows that you were not cut off.

MR. COLTON: I do not know that it does.

By MR. SEVERANCE:

Q. You did not visit the Lassig plant?

A. No, sir.

Q. State whether you visited all the rest of them. Take your time to it.

A. Read the list.

Q. Yes. Post & McCord?

A. Yes, sir.

Q. Pencoyd?

A. Yes, sir.

Q. Union?

A. No, sir.

Q. Trenton?

Q. Yes, sir.

Q. Lassig; you have already said no?

A. No, sir.

Q. Rochester?

A. Yes, sir.

Q. Edge Moor?

A. No, sir.

Q. Elmira?

A. No, sir.

Q. Pittsburg; you have already said no?

A. No, sir.

Q. Shifflller; you have said no?

A. Yes, sir.

Q. Keystone; you have said no?

A. Yes, sir.

Q. Then, Mr. Milliken, your statement as made the other day, that you had visited all these plants except the Keystone, Pittsburg and Shiffler, was incorrect as to the Union, Lassig, Edge Moor and Elmira, was it not?

A. Yes, sir.

Q. So that, instead of visiting all of these plants, eleven in number, you had only visited four, namely: Post & McCord, Pencoyd, Trenton and Rochester? That is true, is it not?

A. Yes, sir.

Q. You stated that the Lassig plant had seven per cent. of this business, and the Rochester plant seven per cent. Do you not know, Mr. Milliken, that in the year 1901, one year later, that the total capacity of the Rochester plant was 7,200 tons and of the Lassig plant 54,000 tons?

A. I do not know; no, sir.

Q. You do not know the contrary, do you?

A. I do not know anything about the changes in the plant.

Q. Do you know there were any changes during that year?

A. I do not, no, sir.

Q. Would you undertake to testify that the same proportion did not exist between those two plants in 1900 as I have stated existed in 1901?

A. I told you that, to the best of my knowledge and belief, the proportion—

Q. (Interrupting) Of capacity?

A. Not of capacity.

Q. Not of capacity?

A. (Continuing.) For doing heavy work?

Q. Yes; capacity for doing heavy work?

A. Was as I have stated.

Q. Now you have placed Lassig and Rochester as equals?

A. Yes, sir.

Q. To wit, each seven per cent.

A. Yes.

Q. You visited the Rochester plant?

A. Yes.

Q. You never visited the Lassig plant?

A. No, sir.

Q. You do not know, and you do not undertake to deny, that the capacity of the Lassig plant in 1901 was nearly eight times that of the Rochester plant, do you,—54,000 against 7,200?

A. That might be true, too; and yet the other might not be wrong.

Q. How can you say anything about it if you did not go to the Lassig plant and see the machinees they had and the equipment they had to turn out heavy work?

A. I can only answer from my general knowledge of the business, which I was testifying from.

Q. As a matter of fact, you do not know anything about it, do you, of your own knowledge, as to what the plant could do or what it did do?

A. At that time I was very conversant with what work I understood they were doing, the class of work they were doing, and I formed my conclusions, as I told you, from that general knowledge.

Q. Is not this a fact: that a plant might be doing a certain amount of a certain kind of work and still have the capacity to do five times that amount of that same kind of work, if they were not successful bidders?

A. That might be. It might also be, however, that they might have a capacity for doing 54,000 tons, of very light work and might not have the capacity for doing heavy work.

Q. That is very true. As to what capacity the Lassig plant had, whether for light work or for heavy work, you know nothing about it, do you?

A. Only from general knowledge.

Q. Your knowledge is not specific. You cannot tell what tonnage they had, or what kind of machinery or equipment they had, can you?

A. I can only answer from my general knowledge.

Q. You cannot tell the source of that general knowledge? Tell me one publication that you ever read on the subject of the Lassig plant.

A. I read all the trade papers.

Q. Tell me one publication that you ever read giving the capacity of the Lassig plant for turning out heavy material.

A. I read Swank's book.

Q. What year? 1900?

A. I do not remember the year.

Q. You are testifying about 1900. That is what you were asked about. Did you read Swank's book for 1900 on that subject?

A. I cannot tell you whether I did or not.

Q. Did you read Swank's book for 1901?

A. I read Swank's books as fast as they were published. Whether he published any in 1900 or not I cannot tell you.

Q. Assuming that he did not publish any books giving statistics of bridge-building plants in 1900, then what did you read that showed you the capacity of the Lassig plant in 1900?

A. I read all the general trade papers that give an account of the work that is executed, pictures and drawings of the work in detail showing the size and extent of it and explaining the difficulties of executing this work.

Q. This is not at all responsive.

Name one publication that you read, either in 1900 or at any other time, that gave you or stated the capacity of the Lassig plant for doing heavy work.

A. I do not remember, at this time, any publication that I ever read.

Q. This capacity of 80 per cent of the large works that you testified about included the capacity for all the smaller work.

A. I do not quite understand that question.

Q. If a plant is equipped to do heavy work, it can also do small work, can it not?

A. It can, as a rule, yes, sir.

Q. Then is this percentage that you have given of the 80 per cent the total tonnage, or only the tonnage as to heavy work?

A. Only the tonnage for heavy work.

Q. Do you consider the output in arriving at that percentage?

A. Only in a very general way.

Q. That is not the question. Did you consider what they

put out, or did you consider what they were capable of making only?

A. I considered both phases of that question.

Q. You could not have considered what the Lassig plant was capable of earning, in view of the fact that you never visited it or read any publication that you can identify with reference to it. Did you know something about their output?

A. I never testified about their earning.

Q. You did not?

A. No.

Q. Another thing: Did not the Lassig plant sell its product mostly in the interior of the country?

A. Yes, sir.

Q. And you were not in that market, were you?

A. Not to any great extent.

Q. You were not at all, were you? Your business was, in 1900, largely in the Metropolitan district here?

A. Largely in the Metropolitan district.

Q. And in the other districts you have stated?

A. Yes.

Q. Consequently, as far as the Lassig plant is concerned, you never visited the plant, you cannot name any publication that described it, you were not a competitor of theirs in the market in which they were doing business, the great interior part of the country; that is a fact, is it not?

A. Yes.

Q. Will you give the capacity in tons included in these various percentages that you have assigned to the different companies for heavy material? I will name them to you in the order in which you gave them the other day. Take Post & McCord; what was their capacity in tons in 1900?

A. You mean figuring out on the basis of that percentage?

Q. No; eliminating percentage. I want the concrete figures now. What was their capacity for turning out heavy work in 1900? What was their tonnage capacity for heavy work?

A. May I consult my memorandum that I made the other day?

Q. Oh, yes. Consult it, certainly.

A. I figured out, approximately, 28,800 tons?

Q. And the Pencoyd Company?
A. Approximately 48,000 tons.
Q. And the Union?
A. 22,400 tons.
Q. And the Trenton?
A. 22,400 tons.
Q. And the Lassig?
A. 22,400 tons.
Q. And Rochester?
A. 22,400 tons.
Q. Edge Moor?
A. 35,200 tons.
Q. Elmira?
A. 35,200 tons.
Q. Pittsburg?
A. 32,000 tons.
Q. Schiffler?
A. 28,800 tons.
Q. Keystone?
A. 22,410 tons.
Q. What does that aggregate?
A. 320,000 tons.
Q. Where did you get those figures?
A. They were my approximate idea of what I thought constituted the heavy tonnage of work in 1900.

Q. Is this the way you did it: Did you assume as a basis that the total tonnage was 400,000 tons and that 80 per cent. of that, which you stated was possessed in tonnage capacity by the plants that were in the American Bridge Company would be 320,000 tons, and then did you divide that in making these figures on the stand into these various percentages, alloting to Post & McCord 9 per cent., to Pencoyd 15 per cent., and so on, and then figure on the basis of these various percentages of 320,000; is that the way you get this?
A. That is partly correct.
Q. Is not that exactly correct?
A. No, it is not.
Q. In what respect is it not correct?
A. In my mind I calculated very roughly my idea or recollection of the total capacity of a plant and then made a

deduction from that total for what I termed work not in the heaviest class.

Q. May I ask this: What was the total that you took from which you made this deduction?

A. I cannot say I fixed any absolute figure about that, Mr. Severance.

Q. You testified in answer to counsel, I believe, the other day, did you not, as to 400,000 tons?

A. Yes.

Q. Did I not ask you this question, and did you not give the following answer:

"Q. Can you give the total tonnage of this heavy work that you have been testifying about in the United States in 1900, or approximately the total?

"A. I should think roughly it would be somewhere about 400,000 tons"?

A. Yes, sir.

Q. By that answer did you mean the tonnage that was produced or the capacity of the plants to produce the tonnage of that character—I mean of heavy work?

A. I meant the total consumption in the United States in heavy work, in my estimation, was 400,000 tons per annum at that time.

Q. That is what you meant?

A. Yes; that is what I meant.

Q. And that that work was, in your opinion, previously expressed in your testimony, produced by plants that went into the bridge company, and plants that did not, and the capacity of these plants, not their output——

A. (Interposing.) No, not their output.

Q. (Continuing.) Would be divided on the basis of 80 per cent. and 20 per cent.?

A. That is correct, yes.

Q. Now it appears from your present testimony, that the capacities of these plants, as you have estimated them, aggregate practically 320,000 tons, which is 80 per cent. of the 400,000 tons which you say is the tonnage sold?

A. No; I think you misunderstood me.

Q. Well, have I misunderstood you?

A. I said the capacity of the plants was in excess of their capacity for turning out heavy work.

Q. What I meant was their capacity for turning out heavy work. You stated that the plants possessed a capacity to turn out heavy work in certain amounts, which you have detailed, which aggregated 320,000 tons. That is true, is it not?

A. Yes.

Q. Beginning with Post and McCord and running down to the Keystone Company, in the order I asked you, and you gave me the figures. That is right, is it not?

A. Yes.

Q. Then, if that is the case, the total capacity to turn out heavy work of each one of these plants was required in 1900 to do the business that was actually done in 1900. That is right, is it not? Every plant running full—that would be required, because 320,000 is 80 per cent. of 400,000.

A. Well, I could not say exactly that. I do not remember that the plants were absolutely full at that time. I cannot say that each and every plant was absolutely full.

Q. But, Mr. Milliken, I do not want to mislead you in any way by my question. You have testified, last Monday, that the total consumption of the country, the tonnage output, was 400,000.

A. In my estimation. That was as near an approximate estimate as I could give. You attempted then to pin me down to percentages for different plants, and I objected to it on the ground that I do not think it is fair to do it that way. I can form a general opinion, but I cannot come down to one per cent. or some fraction of a per cent. for each individual unit. I do not think it is possible to do so.

Q. Let me proceed with my question, then. This morning I have asked you to state the tonnage capacity of these various plants that went into the Bridge Company. I mean capacity for turning out this heavy work.

A. Yes, sir.

Q. And you have detailed these estimates, and they aggregate 320,000 tons.

A. Because I tell you they were based on a percentage

that you named, that I named the other day, figuring on 320,000 tons. It is simply a mathematical calculation.

Q. Taking the figures you have given, 320,000 tons is 80 per cent of the total consumption of the country—the output—and if that 320,000 tons is the total capacity to produce that kind of material possessed by the plants that went into the Bridge Company, then it follows, does it not, that in 1900 they were all running full and their competitors were all running full to make up the other 80,000 tons?

A. On that assumption it would be, yes.

Q. That is a fair assumption from your testimony, is it not?

A. If you wish to deduce that you are entitled to it.

Q. Can you suggest any other deduction?

A. No, sir; you are the judge.

Q. I notice, Mr. Milliken, at page 1592 of the printed record, when you were asked to classify these different plants, you classified the Detroit Bridge & Iron Works as a second class plant. Why did you do that?

A. From my general opinion, from the slight knowledge I had of that plant.

Q. Are you not aware, Mr. Milliken, that previous to 1900 the Detroit Bridge & Iron Works, that you classify as a second class plant, had built the great Virtoria Bridge at Montreal, one of the biggest structures of its kind on the Continent?

A. No, sir; I was not.

Q. Do you recall it now?

A. No. The Victoria Bridge?

Q. Yes, the Victoria Bridge over the St. Lawrence, at Montreal?

A. No, sir. I did not know that they built it.

Q. You do not know they did not?

A. No, sir; I do not know anything about it.

Q. If they were capable of building such a structure as that, you would hardly put them in the second class?

A. I do not know that they built it.

Q. Assume that they built it.

A. I would have to know that they fabricated it, too; I would have to know that they fabricated it and built it.

Q. Assume that they built it and assume that they fabricated it, then what would you say? Would that change your opinion?

A. It might change my opinion.

Q. It would, would it not?

A. I would have to know a little more about it.

Q. Would you?

A. Yes. I do not know the bridge, in the first place; I do not know the size of it or its construction.

Q. You know something about the St. Lawrence River, do you not?

A. Yes; I have been on it.

Q. Have you been at Montreal?

A. Yes.

Q. Do you think a company that possessed a plant that could fabricate a railroad bridge across that river at that point would be a second class plant? Would you define them as first or second class?

A. If they did that that might change my opinion.

Q. It would, would it not? If the fact were brought to your knowledge, so that you were satisfied of the truth of the fact, that this company built the bridge and fabricated it, you would say that it would place them in the first class instead of the second class, would you not?

A. Can you not change your question? You ask me if I were satisfied would I be satisfied.

Q. Oh, no. I say if you learned it to be a fact that the Detroit Company had fabricated and built a railroad bridge across the the St. Lawrence River at Montreal previous to 1900, would you not say that they must be classed as a first class shop within the definitions that you have given?

A. Can you give me the span of the bridge?

Q. I could not do that.

MR. LINDABURY: He says he has been over it.

BY MR. SEVERANCE:

Q. You have been there?

A. I have not been over the bridge.

Q. How did you get to Montreal—did you swim the river?

A. I went down in a boat from the Thousand Islands and went down to Quebec.

MR. LINDABURY: Then you went under the bridge.

THE WITNESS: I do not think there was any bridge there when I went there. That was a good many years ago. I guess it was in the early eighties.

BY MR. SEVERANCE:

Q. Then you have not been there recently?

A. No.

Q. Assuming that it should turn out that the spans of that bridge are 220 feet to 320 feet in length—there are several spans of the bridge—would you think that a plant that could fabricate and build that bridge would be a second-class plant?

A. It is a railroad bridge, is it?

Q. Yes.

A. Single or double track?

Q. Double track, I understand.

A. Is it a pin-connected bridge or a riveted bridge? It makes a difference.

Q. A double-track railroad and highway bridge; you can have it pin-connected or riveted, whichever you please.

A. Because if it is a pin-connected bridge I do not suppose they built it all, because I do not remember their having any I-bar plant at Detroit.

Q. You may assume for the purpose of your answer that I am not misleading you about the fact that they fabricated and built the bridge. I am asking you to assume that. Assuming that they did that, and that the bridge was of that character, the character I have described to you, over the St. Lawrence River at Montreal, would you not say that a plant that could fabricate and build that bridge was entitled to be placed in the first-class list, as you differentiated the classes the other day?

A. All right; yes, sir.

Q. That is so, is it not?

A. All right; yes, sir.

Q. There is one thing I forgot to ask you in connection with the business of Milliken Brothers. You built large buildings in New York, did you not?

A. Yes.

Q. You built the Hippodrome, did you not?

A. Yes, sir.

Q. You started to build a portion of the Pennsylvania Railroad Station, did you not, at the time you got into trouble owing to the excessive cost of your rolling mill, and had to suspend that under a receivership; is that true?

A. The contract was canceled.

Q. But you had secured the contract?

A. Yes; we had secured the contract and executed part of the material when the contract was canceled.

Q. It was cancelled on account of the receivership?

A. During the receivership; yes, sir.

Q. What part of the building did the contract cover?

A. The structural steel work for the Pennsylvania Terminal Station.

Q. You built the Long Island Railroad Power House, did you not?

A. Yes, sir.

Q. As to these great contracts, were you competing in them with the American Bridge Company and others?

A. On these two, yes, sir.

Q. These three, with the Hippodrome——

A. Oh, I forgot the Hippodrome. I cannot tell you about the competition on the Hippodrome, but the other two, I think the American Bridge Company bid against us on both the contracts.

Q. You had other large buildings here in New York besides these, although perhaps not as monumental——

A. (Interposing.) Excuse me. Of course, you are going into dates since 1900, now?

Q. Yes.

A. Yes.

Q. When was the Hippodrome built; that was not built in 1900, was it?

A. No; it was built after that.

Q. These three I have mentioned have all been built since 1900, have they not?

A. Yes, sir; all since 1900.

Q. And since then, before the failure of your company

in 1907—before your receivership—Milliken Brothers did a large amount of heavy work here in this district, did they not?

A. Yes, sir.

Q. Large buildings?

A. Yes, sir.

Q. Where you were ordinarily a competitor of some of these companies you have named as your competitors?

A. Yes.

Q. When was it you visited the Rochester plant?

A. I was at the Rochester plant a number of times; I cannot give you the dates.

Q. Were you there before 1900?

A. Yes, sir.

Q. And you have been there since 1900?

A. I do not remember whether I have or not.

Q. When in 1900 were you there, if you remember?

A. I cannot recall.

Q. When was it you visited the Trenton plant?

A. I cannot fix these dates.

Q. During the time between 1900 and 1907, from whom did you purchase your steel which you fabricated, what different companies?

A. The Carnegie Steel Company, Jones & Laughlin, the Phoenix, Cambria, Lackawanna, Passaic, the Eastern Steel Company, and foreign mills.

Q. The Pennsylvania?

A. No.

Q. And you bought from foreign mills in executing foreign contracts or domestic contracts?

A. I cannot be sure whether any foreign material was bought for domestic use; if so, it is something minor, and only due to inability to get delivery of domestic material. As a rule, the foreign material that we bought went into export work.

Q. That is what I supposed, and a considerable amount of the export business that you did was fabricated abroad, was it not?

A. Yes, sir.

RE-DIRECT EXAMINATION,

By Mr. Colton:

Q. Mr. Severance asked you in your testimony the other day:

"Q. I am giving it to you just the way you gave it to us. You stated that 80 per cent of that capacity was embraced in those companies that went into the Bridge Company. I want to know how much of that 80 per cent was attributable to the Roberts Company, the Pencoyd Works, and how much to Post & McCord, and so on. You have said you cannot tell as to the Pencoyd Works. Can you tell as to Post & McCord?"

On page 1608 of the printed record Mr. Severance said:

"Q. That makes 108 per cent out of a total of 80, and you have not mentioned Keystone, which you named in answer to Mr. Colton. What is the percentage of Keystone; how much can we add to the 108 per cent for Keystone?"

You and Mr. Severance had a misunderstanding as to what that first question meant?

A. Yes, I think it is afterwards corrected—a little way further on. You will see that I misunderstood him. Possibly I did not hear.

Mr. Severance: Look at page 1609 of the printed record. Mr. Milliken there says that he misunderstood the question:

"A. Then I misunderstood your question. I understood you to ask what proportion of the heavy work did Pencoyd do of the total capacity of doing heavy work in the American Bridge Company."

I then said:

"Q. Oh, no, I asked you as to the entire United States."

Then he said, "I thought you asked me as to the American Bridge Company."

Mr. Colton: This question would not be correct in the light of that.

Mr. Lindabury: What follows later I think makes it clear.

Mr. Severance: I intended to ask as to the percentage of the 80 per cent, but he said he misunderstood.

The Witness: Yes, I misunderstood.

MR. COLTON: I would like to offer in evidence a work whose authority has already been proven by counsel for the United States Steel Corporation, or so much of it as I hereafter name. The work is "Iron & Steel Works of the United States and also of Canada and Mexico, 1898," and the pages I wish to put in are the first page that has any amount of printed matter on it. It is a directory of the iron and steel works. I wish to introduce that page in order to show what it included. That is the title page, the first page that has any printed matter on it.

I also wish to put in evidence pages 278 to 284, inclusive, which purport to give a complete list of capacity for companies in the United States at that time.

MR. LINDABURY: That is already in evidence, is it not?

MR. COLTON: Those pages have not been put in evidence. I offer them in evidence.

MR. LINDABURY: We object to that. We do not understand that the high opinion in which counsel for the defendants hold this book makes it evidential; nor entitles it to be put in evidence except by agreement. It may be that when counsel on both sides get together they will agree to accept certain statements there as evidence, as if proven by the witness, but except by agreement we do not understand that it is admissible or that anything in that book can be made evidence, and we therefore object to it.

By MR. COLTON:

Q. I would ask you to look at page 278 of that book and name the first company that you find there that has a capacity of 10,000 tons or over.

MR. SEVERANCE: I object to that as immaterial and incompetent. The book shows for itself. You have offered it in evidence, and why waste time having him read it out of a book?

MR. COLTON: I have certain questions to ask on this line subsequent to this.

MR. SEVERANCE: I object to his reading from this book for any purpose.

By Mr. Colton:

Q. I ask you to name the first company that has 10,000 tons or over.

A. Boston Bridge Works.

Q. Would you put that company down on a sheet of paper, together with the tonnage there, because I wish to get certain calculations.

Mr. Severance: Can you not make these calculations?

Mr. Colton: Counsel on the other side has made certain calculations in his cross examination, and I think this is proper.

Mr. Severance: I did not ask the witness any figures about the Boston Bridge Works.

The Witness: Yes, you did ask about the Boston Bridge Works.

Mr. Severance: I beg your pardon, then.

Mr. Colton: I should also like to put in evidence from the Iron & Steel Works of 1901 so much of page 170 as relates to the Passiac Rolling Mills and Bridge Works. I offer that in evidence.

Mr. Severance: We make the same objection to that as Mr. Lindabury stated in regard to the pages in the other book.

(True copies of the extracts so identified will be found in full in the book of exhibits, marked respectively Government Exhibit No. 133 and 133a; and Government Exhibit No. 134.)

By Mr. Colton:

Q. You spoke of I-bars in your cross examination. What are I-bars; what are they used for?

A. Primarily I-bars are used in heavy highway and railroad bridges for the tension members; that is, they were used some years ago, they are not used to such a great extent now.

Q. Prior to 1900 what companies in the United States manufactured I-bars, so far as you know?

A. To my recollection, the Phoenix people. The King Bridge Company made some of the smaller sizes; the Pencoyd made large sizes; the Union, Edge Moor and Keystone.

Q. No others?

A. Not that I can recollect.

Q. Can you refresh your recollection as to any others from looking over the Iron & Steel Works named in the directory there?

MR. SEVERANCE: You mean refresh his recollection from that book?

MR. COLTON: Yes.

MR. SEVERANCE: I object to that.

MR. COLTON: There is no statement there as to who made I-bars.

THE WITNESS: There is no statement here to the effect that certain companies manufactured them.

MR. SEVERANCE: Oh; I thought there was.

THE WITNESS: To my best recollection that is the complete list of the people making what are known as I-bars for bridges and bridge work.

By MR. COLTON:

Q. Then, of the companies of those that did not go into the American Bridge Company, there was only one company that made all sizes of I-bars, of the heavy size?

A. That is what I should say, only one company—the Phoenix.

Q. What was the use of those I-bars at that time?

A. At that time nearly all the railway bridges, heavy, long span bridges, were constructed with I-bars. It was at a later date that the riveted connection came into vogue.

Q. What is a girder in a building?

A. A girder is a compound member, that is, a riveted member, made up of plates and angles, sometimes channels and other structural shapes.

MR. LINDABURY: Do you mean as to its use?

MR. COLTON: Yes:

MR. LINDABURY: He has not testified as to its use.

By MR. COLTON:

Q. Where is it used?

MR. LINDABURY: What office does it perform?

A. In a building, in the foundations, it may be used as a distributing girder or a cantilever girder.

By Mr. Colton:

Q. What do you mean by a distributing girder?

A. Where you come down with a heavy concentrated load on a column and you wish to distribute that load over a surface, you use one or more girders to transmit that load to other beams or girders underneath it, which still further distribute it.

Q. What does the girder rest on?

A. A girder may rest on what is known as the grillage beams, or it may rest direct on the rock or concrete foundation, or it may rest on some other columns or support.

Q. Of what weight is a girder? I believe you have testified about that.

A. I testified that a heavy girder, in 1900, I should assume, weighed 25 tons.

Q. What story building would you expect to use that sort of girder in?

A. You might possibly use it in a one-story building under certain conditions.

Q. What are the conditions?

Mr. Severance: If you want a full answer to that question, it will take all day.

A. If you want to form a large space not obstructed by columns, you might introduce a girder overhead to avoid the use of columns and frame the beams into the girder, and thus transmit the load to the columns or points of support.

By Mr. Colton:

Q. What are some of the different lengths of heavy girders as used in 1900?

A. They are innumerable.

Q. Name some of them.

Mr. Lindabury: A girder can be any length.

Mr. Colton: He can say that, if that is a fact.

A. I think I testified that I do not remember any girders in 1900 being as long as 100 feet, used in building construction, except that I do remember one instance where I think the girder was that long; but it was sent to the building in pieces and erected piece meal on false work.

By Mr. Colton:

Q. Then it might be any length short of 100 feet, in 1900? Is that right?

A. Yes, sir.

Q. To what different lengths do columns go, or did they usually go in 1900?

A. A column in those days rarely exceeded two stories. It might, for some special reason—head-room, for instance—exceed that, but as a rule in building construction a column in those days would be possibly 30 feet long, or 35 feet.

Q. When did you start to build your rolling mill concerning which Mr. Severance has asked you?

A. January, 1906.

Q. What caused you to start to build a rolling mill at that time?

Mr. Severance: Objected to as incompetent and immaterial. It does not make any difference why he started to build a rolling mill then.

The Witness: What was the question?

(The question was repeated as above recorded.)

A. There were a number of reasons.

By Mr. Colton:

Q. State them.

Mr. Severance: The same objection.

A. Well, we felt that to insure the delivery of our raw material, and control its delivery, we would make our own steel and roll our own material. We also felt that with the prevailing price at that time there was a large margin of profit in the raw material, and we felt that we might be prevented from getting our material for our foreign work.

Q. Did you purchase your material to a considerable extent from competitors of yours?

A. We purchased a very large quantity of our material from the Carnegie Steel Company.

By Mr. Colton:

Q. Whom did you employ in connection with the building of your rolling mill work?

MR SEVERANCE: I object to that as immaterial. What difference does it make?

A. George L. Reis.

By MR. COLTON:

Q. What was his original estimate upon the building?

MR. SEVERANCE: Now, Mr. Colton——

MR. COLTON: We intend to connect this later.

MR. SEVERANCE: I object to it as immaterial and incompetent.

MR. COLTON: I will repeat the question.

What was his original estimate upon the building?

A. His estimate for the steel plant and rolling mill was about $3,000,000.

Q. In a general way what did you and your company do to raise that $3,000,000?

MR. SEVERANCE: Objected to as immaterial.

A. We issued first mortgage bonds to the extent of $3,000,000.

By MR. COLTON:

Q. By whom were these first mortgage bonds taken up?

MR. SEVERANCE: Objected to as immaterial.

A. They were purchased by the firm of William Salomon & Company and J. H. Bache & Company, of this city.

Q. When were you first informed that Mr. Reis was not going to come within his estimate?

MR. SEVERANCE: Objected to as incompetent, irrelevant and immaterial.

MR. LINDABURY: You mean the bids were not within Mr. Reis' estimate, do you not?

MR. COLTON: I will ask the stenographer to repeat my question.

(The stenographer repeated the question, as follows:)

"Q. When were you first informed that Mr. Reis was not going to come within his estimates?"

THE WITNESS: My recollection—

MR. DICKINSON: Wait a moment. Let us hear that question again, so that we will all understand it.

(The question was again repeated by the stenographer as above recorded.)

THE WITNESS: My recollection is that it was in September of 1906.

By MR. COLTON:

Q. Give the substance of the conversation between you in regard to this.

MR. SEVERANCE: Objected to as incompetent and immaterial. Do you mean between Mr. Reis and himself?

MR. COLTON: Yes, between Mr. Reis and Mr. Milliken.

THE WITNESS: I cannot give you all.

MR. SEVERANCE: I appeal to counsel for the Government. It seems to me this is not at all competent.

MR. COLTON: If you would strike out the question of failure in the first instance I would not go into it, but you brought out the question of failure there.

MR. REED: And this could be objected to as hearsay.

MR. SEVERANCE: Yes; I object to it as incompetent, and immaterial, and because it is hearsay.

By MR. COLTON:

Q. By what amount did Mr. Reis' estimate fall below the amount finally required to complete the work?

MR. SEVERANCE: Do I correctly understand that the previous question has been withdrawn?

MR. COLTON: Yes.

MR. SEVERANCE: I object to this question as immaterial and irrelevant.

A. My recollection is that in round figures it was somewhere about $2,000,000.

By MR. COLTON:

Q. And you were not notified of this until September?

A. No, I did not know in September, 1906, that it would amount to any such figure as that.

Q. Where did Mr. Reis come from, the man who designed the works?

MR. SEVERANCE: I object to that as irrelevant and immaterial.

THE WITNESS: Before coming to our employ he was general manager of the Lackawanna Iron & Steel Company at Buffalo.

By MR. COLTON:

Q. What was the occasion of Mr. Reis' leaving your employ?

MR. SEVERANCE: I object to that as incompetent and immaterial.

MR. LINDABURY: It seems to me that we had better stop and and go to Philadelphia on this line of inquiry. It is an abuse of the privilege of counsel. It is a serious thing, if you are to take our time and spend our money on such inquiries.

MR. COLTON: Did you consider the failure of Milliken Brothers as material?

MR. LINDABURY: It was merely incidental.

MR. COLTON: If that question is stricken out I will give up the cross examination of this witness; but if that question is left in, I think I am entitled to cross examine.

MR. SEVERANCE: As to the reason for discharging the architect?

MR. COLTON: Yes.

MR. SEVERANCE: You do not claim that the Court will ever consider it or will hesitate to strike it out, do you?

MR. LINDABURY: I ask the Master to stop the examination until we go to Philadelphia, if you are going on with this thing. We have some rights here. You have no right to go on with such absolutely absurd inquiries as these.

MR. COLTON: Do you make that request?

MR. LINDABURY: If you persist in this line of inquiry, as to why the architect was discharged, or what was his conversation with him.

MR. COLTON: I did not press that question as to the conversation, so you cannot make your motion as to that.

(By request, the stenographer read the question referred to, as follows:)

"Q. What was the occasion of Mr. Reis' leaving your employ?"

MR. LINDABURY: I propose to ask the Master to stop this examination and go to the Court about it, unless you withdraw the question.

MR. COLTON: I withdraw that question.

By MR. COLTON:

Q. Where did Mr. Reis go immediately after leaving your employ?

A. I understand—

MR. LINDABURY: I object to the question as immaterial and incompetent. The witness is starting out, in his answer, by saying "I understand," which shows that it is only hearsay.

MR. COLTON: (To the witness): Answer the question.

THE WITNESS: I understand he was employed by the United States Steel Corporation in building their Duluth plant.

By MR. COLTON:

Q. How soon after he left your employment did he take up that employment?

MR. SEVERANCE: The same objection.

THE WITNESS: My recollection is that he went right away.

By MR. COLTON:

Q. Who was the receiver appointed for your company at the time of its failure?

A. There were three receivers.

Q. Who were they?

A. William L. Ward, August Heckscher and J. VanVechten Olcott.

Q. Do any of the banks here in New York hold either bonds or mortgage on the Milliken works?

MR. SEVERANCE: I object to that, as incompetent, irrelevant and immaterial. What can that have to do with what we are trying here?

MR. COLTON: Let him answer the question.

MR. SEVERANCE: I do not want him to answer the question. I appeal to the Master.

(By request the stenographer repeated the question as follows:)

"Q. Do any of the banks here in New York hold either bonds or mortgage on the Milliken works?"

MR. SEVERANCE: This gentleman is not even in the company, now.

MR. COLTON: At that time, I am speaking of.

MR. LINDABURY: (To the witness.) Do not answer that question.

MR. SEVERANCE: It makes no difference.

By MR. COLTON:

Q. Did they, at that time, prior to your failure?

A. Hold any bonds?

Q. Yes; or have any mortgage on the works of the Milliken Brothers?

A. Certain banks here held the notes of Milliken Brothers.

Q. What banks held the notes of Milliken Brothers?

MR. SEVERANCE: The same objection.

THE WITNESS: The Mechanics' National Bank, the National Park Bank, the Guardian Trust Company and the International Bank.

Q. Who were appointed on the reorganization committee of Milliken Brothers?

MR. SEVERANCE: Mr. Colton, do you insist on going on with this sort of outside stuff, that cannot possibly have anything to do with this case?

MR. COLTON: I do not admit that it cannot possibly have anything to do with this case.

MR. SEVERANCE: You know it has nothing to do with this case. You are lawyer enough to know that.

MR. COLTON: (To the witness.) Answer the question.

MR. LINDABURY: Do not answer the question.

Do we understand that you approve of this question, Judge Dickinson?

MR. DICKINSON: I will make this statement, at your solicitation. I would not otherwise foreshadow what the testimony will show. I might as well state, since the question has arisen, that as I understand the testimony will show that they had made arrangements to rehabilitate the company, and that they were disappointed in that and did not get the accommodation through the banks here that they felt they had a right to get, and that this evidence tends to show that there were influences which operated to prevent these works from being financially rehabilitated. That is the object of the testimony. Whether it will be connected up fully or not is another matter that I am not able to state.

It was brought out, not in the direct examination, but in cross examination, that this firm of Milliken Brothers failed, and that they failed on account of the cost of the work over and above their expectations. That is the object of this testimony, as I understand. The object of this testimony is to show that, in some way, here in New York, through moneyed influences, they were prevented from rehabilitating this plant. That is what we are endeavoring to show, and we cannot show it all at once. How far it will be connected up, I am not able to say at this moment.

MR. LINDABURY: We are entitled to know—

MR. DICKINSON: (Interposing.) You are not entitled to know just what our testimony is, or will be.

MR. LINDABURY: We are entitled to know whether or not you propose to connect the Steel Corporation with the influences to which you alluded.

MR. DICKINSON: I am willing to withdraw this question for the present, reserving the right, if we care to do so, to recall the witness on that question.

MR. LINDABURY: When you have satisfied yourself of your ability to make the necessary connection?

MR. DICKINSON: Yes; of course. That is the sole reason. Otherwise I would not withdraw the question.

MR. LINDABURY: Of course nothing you have said would be

evidential unless, in some way, the Steel Corporation were connected with it; and that you want to look into.

MR. DICKINSON: Yes.

MR. LINDABURY: There is no objection to that whatever.

MR. SEVERANCE: Have you finished, Mr. Colton?

MR. COLTON: Yes; that is all.

RE-CROSS EXAMINATION.

By MR. SEVERANCE:

Q. You were asked about the companies that were equipped for manufacturing I-bars in 1900, and you stated that the Phoenix people were the only ones who could make I-bars of all sizes?

A. I meant large sizes.

Q. Both large and small sizes.

A. Yes; large and small sizes.

Q. Is it not a fact that the Phoenix plant alone had capacity enough to manufacture all the I-bars needed in the United States at that time?

A. I should not think so; no, sir.

Q. What tonnage would you say they could manufacture? Much more than 20 per cent, could they not? More than 50 per cent?

A. I would not like to form any opinion on percentages. I have seen their I-bar plant, and I should say, generally, they could not begin to make all the I-bars that were used in the United States in 1900.

Q. You would not undertake specifically to state that? You say you state it generally?

A. I state it generally, yes.

Q. Not specifically?

A. Not specifically.

Q. Is it not a fact that you are mistaken about the King Bridge Company only being equipped for making small sizes? As a matter of fact, were they not equipped to make all sizes, and did they not make all sizes?

A. That is not my recollection.

Q. Were you ever in their plant?

A. No; but we sent inquiries to them; and my recollection

is that, on one inquiry we sent them, they declined to quote on some sizes, and I think it is that that gave me the impression that was in my mind that they did not make all sizes.

Q. They might have sold that size, or they might have had orders ahead or something like that? May not that have been so?

A. I think their reason was stated, that they could not make the larger sizes.

Q. You would not undertake to testify, of your own knowladge, that they could not make all sizes, would you? Because you have never been in their plant, and you do not know, for that reason, except as you have got this impression from some correspondence?

A. I have stated my source of information.

Q. You have no other source of information except as you have stated?

A. Yes, sir; I have.

Q. What is it?

A. One of their leading men was, for a great many years, employed by us; and I think I discussed the question of I-bars with him.

Q. That is, after he went to them?

A. After he came to us.

Q. After he came to you?

A. Yes; he came to us.

Q. So that, to the best of your knowledge, the King Bridge Company could only build the smaller size?

A. Yes.

Q. Where was their plant located?

A. At Cleveland.

Q. And you were never in it?

A. No, sir.

MR. SEVERANCE: That is all.

(The witness was thereupon excused.)

MR. COLTON: Is there any one here from Milliken Brothers producing a contract from Milliken Brothers?

MR. ECKHARDT: As to the contract you wanted we did not find any record of there having been one made.

MR. SEVERANCE: What paper is that?

MR. COLTON: A contract between Milliken Brothers and the Tennessee Coal, Iron & Railroad Company was objected to on the ground that it was in writing, and that the writing was the best evidence of it. Consequently, I am trying to find out whether the document exists or where it was. The witness who referred to it, I think, testified that it was in the records over at Milliken Brothers.

MR. SEVERANCE: Are you going to put this man on the stand?

MR. COLTON: Yes.

CHARLES W. ECKHARDT,

called as a witness on behalf of the United States, being first duly sworn testified as follows:

DIRECT EXAMINATION.

By MR. COLTON:

Q. Have you the subpœna with you?

A. Yes, sir. (Handing paper to counsel.)

Q. What is your full name?

A. Charles W. Eckhardt.

Q. What is your age?

A. Thirty-eight.

Q. What is your present employment?

A. Purchasing agent of Milliken Brothers, Incorporated.

Q. Do you have charge of the contracts of Milliken Brothers generally?

A. Yes, sir.

Q. Has not the company a secretary?

A. Yes; I believe there is a secretary.

Q. Does not the secretary have general charge of contracts?

A. Not for purchasing, no, sir. I have charge of them.

Q. How long have you been in charge of contracts for purchasing?

A. About two and a half years.

Q. Do you have under your custody contracts entered into during the years 1906 and 1907 by Milliken Brothers?

A. Yes, sir.

Q. Have you searched for all contracts between the Tennessee Coal, Iron & Railroad Company during the year 1907 for the purchase of pig iron by Milliken Brothers from the Tennessee Coal, Iron & Railroad Company?

A. Yes, sir.

Q. What did you do?

A. I went to the vault and got out all the contracts for that period; went through every one individually and found none with the Tennessee Coal, Iron & Railroad Company. I also went through our order books, thinking that possibly there was an order issued,—an ordinary purchase order. Also I went to the accounting department to ascertain whether we had any account whatever with them, and could find none.

Q. How far back did you extend that search?

A. 1906 and 1907.

(The witness was thereupon excused.)

FOSTER MILLIKEN,

having been previously sworn, resumed the stand for further examination.

By MR. COLTON:

Q. Did you make any contract, or did Milliken Brothers enter into any contract with the Tennessee Coal, Iron & Railroad Company in respect to the purchase of pig iron, shortly prior to the time of the failure of Milliken Brothers?

MR. SEVERANCE: You asked him that question the other day

MR. COLTON: Yes.

MR. SEVERANCE: And he said there was one made, and that it was in writing.

MR. DICKINSON: He said he though it was in writing.

THE WITNESS: I said I thought it was in writing.

MR. SEVERANCE: We object to the question as irrelevant and immaterial.

By MR. COLTON:

Q. Tell us, briefly, about the contract, the terms of it.

MR. SEVERANCE: The same objection.

MR. LINDABURY: And with whom it was negotiated.

THE WITNESS: The contract, as I remember it, was entered into by the head of our purchasing department at that time with the Tennessee Coal & Iron Company.

MR. SEVERANCE: I object to that as purely hearsay. You do not want that, do you, Mr. Colton?

MR. DICKINSON: Was it reported to you?

THE WITNESS: It is not exactly hearsay.

MR. DICKINSON: Was it reported to you?

THE WITNESS: Yes; I went down to see Mr. Topping at the time of the cancellation of the contract, and had a talk with Mr. Topping about it. Whether it was in writing or some other way I do not know.

By MR. COLTON:

Q. How large a tonnage was involved in that contract?

MR. SEVERANCE: The same objection.

THE WITNESS: I think I stated before that I could not give the tonnage. I do not know whether it is 10,000 tons or 20,000 tons; but there was a considerable tonnage of pig iron.

By MR. COLTON:

Q. Was it more or less than 5,000 tons?

A. I think it was more.

Q. Where was this pig iron to be delivered?

MR. SEVERANCE: The same objection.

THE WITNESS: I think it was on board cars at their works.

By MR. COLTON:

Q. And where was this pig iron to be used?

MR. SEVERANCE: The same objection.

A. It was to be used in the manufacture of steel in our open-hearth steel plant on Staten Island.

By Mr. Colton:

Q. Was the contract carried out?

A. It was not; no, sir.

Q. Why was it not carried out?

Mr. Severance: The same objection.

The Witness: We requested the cancellation of the contract.

By Mr Colton:

Q. Was the contract cancelled?

A. To the best of my knowledge and belief it was cancelled.

Mr. Colton: That is all.

Mr. Severance: No questions.

(Whereupon a recess was taken until two o'clock p. m.)

AFTER RECESS.

At the expiration of recess the hearing was resumed.

E. C. FELTON,

called as a witness in behalf of the United States, being first duly sworn, testified as follows:

DIRECT EXAMINATION.

By Mr. Dickinson:

Q. What is your age?

A. 54.

Q. Where do you live?

A. Philadelphia.

Q. What business are you in?

A. I am President of the Pennsylvania Steel Company.

Q. How long have you been president of the Pennsylvania Steel Company?

A. Since 1896.

Q. Were you connected with them before that?

A. Yes, sir.

Q. In what capacity?

A. Do you mean from the beginning?

Q. How far back does your connection with them go?

A. I went to work with the Pennsylvania Steel Company in 1880.

Q. In one capacity or another you have been with it ever since?

A. I have been with it ever since in one capacity or another.

Q. Where are those works located?

A. We have two steel works, one at Steelton, near Harrisburg, Pennsylvania, and the other at Sparrows Point, in Maryland.

Q. That was the Maryland Company, was it?

A. That is the Maryland Company, now, but the Pennsylvania Steel Company owns it.

Mr. Lindabury: The Pennsylvania Steel Company of New Jersey?

The Witness: The Pennsylvania Steel Company of New Jersey owns both the Pennsylvania Steel Company of Pennsylvania and the Maryland Steel Company of Maryland.

By Mr. Dickinson:

Q. It owns the stock of those two companies?

A. It owns the stock of those two companies.

Q. How long have those two companies been under one control?

A. Always. That is, I might explain, the Pennsylvania Steel Company of Pennsylvania originally erected at Sparrows Point, Maryland, what they called their Maryland extension, near Baltimore. Later on, finding that it was better to operate their works under a Maryland charter, the Maryland Company was formed, but the ownership has been retained from the beginning.

Q. The Pennsylvania Steel Company erected it?

A. The Pennsylvania Company erected it.

Q. When was the Pennsylvania Steel Company of New Jersey incorporated?

A. The Pennsylvania Steel Company of New Jersey was incorporated in 1901, I think.

Q. Going back to 1898, please state what the Pennsylvania Steel Company manufactured?

A. In 1898 it manufactured steel rails and billets and shapes.

Q. Did it make blooms?

A. Yes.

Q. And slabs?

A. Yes.

Q. Did you say it made plates?

A. No; we never made any plates.

Q. What kind of rails did you make?

A. Bessemer rails and open hearth rails.

Q. For railroads, the standard rail?

A. Yes.

Q. For street cars also?

A. For both, yes.

Q. In 1898 you did not make open hearth rails, did you?

A. We made some open hearth from the beginning.

Q. Was that experimental?

A. No.

Q. Did you continue it steadily?

A. I would not say that the manufacture of open hearth rails was a regular business in 1898.

Q. Your main business was Bessemer rails?

A. Yes.

Q. Did you make crossings?

A. Yes.

Q. And switches and frogs?

A. Yes, and track material of all kinds.

Q. Did you make boiler and structural material?

A. We made bridge and building material. We never built boilers.

Q. Did you make boiler material?

A. We made some material going into boilers.

Q. That is what I mean.

A. But not in the shape in which it goes into boilers. Plates are used in the manufacture of boilers, and we did not make plates.

Q. One form of the process you performed. What was the total capacity of the Pennsylvania Steel Company in 1898, in gross tons, in ingots?

A. Would you mind my referring to some figures that I have had prepared governing those things?

Q. No, you may refresh your recollection.

A. It is impossible to remember all these things. I do not know whether I go back as far as that.

MR. DICKINSON: Repeat the question, please.

(The question was repeated as above recorded.)

THE WITNESS: Do you mean capacity or what we made?

By MR. DICKINSON:

Q. I will put it both ways. I asked as to capacity.

A. Capacity is a rather indefinite thing. I can tell you what we made.

Q. Suppose you do that, then?

A. 519,000 tons in 1898.

MR. LINDABURY: Is that of ingots?

THE WITNESS: Steel ingots, both open hearth and Bessemer.

By MR. DICKINSON:

Q. In 1898 did the Pennsylvania Steel Company have selling agencies established anywhere in the United States, and, if so, state in what cities?

A. Philadelphia, New York, Baltimore, Steelton. I do not think in that year we had an agency established in Chicago.

Q. How about Boston?

A. Yes, Boston. I think I stated Boston.

Q. How about San Francisco?

A. We had no agency established in San Francisco then.

Q. Did you have shortly after that, and, if so, about what time?

A. I think our sales agency in San Francisco was established perhaps in 1903. I can give you these facts absolutely if you want them.

Q. No; I do not think it is of sufficient importance.

A. My recollection would be very uncertain.

Q. That is as near as you can fix it, is it?

A. Yes.

Q. I call your attention to a statement here in the Iron & Steel Works of 1898, and ask you whether or not that will refresh your memory. If it does, you can state it.

MR. LINDABURY: I object to that as not a proper way of refreshing the witness' recollection. He did not write the book.

MR. DICKINSON: No, but he knows the book.

By MR. DICKINSON:

Q. You know this book, do you not—Swank's Steel Directory?

A. Yes.

Q. You can look at it, and if you do recollect you may answer, and if you do not you may say so.

MR. LINDABURY: The same objection.

A. (After examination.) I might explain. This says that C. B. Kaufman & Company represented us in San Francisco. No doubt they did, but I thought you meant whether we had regularly established agencies of the company.

Q. No; what I meant was whether you had anybody in these places that sold your products.

A. Probably we have had people in every city in the United States on that same basis, but we had no regularly established office of our own.

Q. Oh, that is what you understood me to ask?

A. Yes.

Q. How about Chicago; did you sell your products there, in that city?

A. Yes.

MR. LINDABURY: He has answered, "in every city in the Union."

By MR. DICKINSON:

Q. When you excluded San Francisco and Chicago you understood the question was as to regularly established agencies?

A. Yes, sir. We were selling through——

Q. (Interposing.) Where you maintained an office of your own.

A. Yes, where we maintained an office of our own. Of course, we sold through commission people wherever commission people brought the business to us.

Q. State whether or not the Pennsylvania Steel Company and the Maryland Steel Company in the years 1899 and 1900 competed with the Carnegie Steel Company?

A. Yes.

Q. In what did they compete principally?

A. In rails, billets and blooms, and in the lines of structural shapes which we manufactured. We did not manufacture a full line of structural shapes.

Q. In what territory did these two companies I have named compete with the Carnegie Company?

A. I should say principally in the country east of the Allegheny Mountains, in New England and in the South.

Q. You sold, however, in Chicago, did you, and in that vicinity?

A. Yes, to a small extent.

Q. Did the Carnegie Company sell there?

A. I suppose they did. I cannot remember that we competed directly with the Carnegie Company in——

Q. (Interposing.) But you did in a number of states, did you?

A. We did in a number of states.

Q. What of your products were sold in Chicago or in that vicinity during those years? I mean from Chicago.

A. Principally material such as frogs and switches, things that would bear the transportation better than rails and the cruder steel products.

Q. As to San Francisco, please answer the same question?

A. In San Francisco we sold rails and all such products.

Q. Where did you sell billets in 1897, 1898, 1899 and 1900? I am referring to the Pennsylvania Steel Company.

A. Principally in the district east of the Allegheny Mountains, in New England, for instance, and we of course have always sold some billets in the Pittsburg district.

Q. In all those years you sold some in that district?

A. Yes.

Q. Where did you sell your structural material during those years? I am still speaking of the Pennsylvania company.

A. We probably sold our structural material in the Chicago district and in the district east of the Allegheny Mountains—New England and through the Southern States.

Q. Where did the Maryland Steel Company, in the years 1897 to 1900, inclusive, sell its products?

A. In the same territory; that is, in New England, the states east of the Allegheny Mountains, the Gulf States and the Southern States, and also on the Pacific Coast.

Q. During these years did either of these companies, the Pennsylvania or the Maryland Company, compete with the National Steel Company?

A. If they competed at all with the National Steel Company, they competed in billets and blooms. I do not think the National Steel Company began the manufacture of rails until after 1900.

Q. But it was manufacturing billets?

A. It was.

Q. And selling them generally in the market?

A. I think so.

Q. Selling them in competition with your company?

A. I think so.

Q. Did your companies, either of them or both of them, compete in 1899 and 1900 with the Illinois Steel Company?

A. I should say if at all to a very limited extent, and probably in the district along the Gulf.

Q. In what?

A. In Louisiana and Texas—

Q. I mean in what articles?

A. In rails. I do not think we were ever in competition with the Illinois Steel Company in other products than rails in those years.

Q. In the years 1899 and 1900 what did the Pennsylvania Company sell in the Gulf States? Name over the various products, please.

A. Almost exclusively rails and material connected with track. That is, fish plates and frogs and switches connected with railroad tracks.

Q. Was that so with respect to the Maryland Company?

A. That was so with respect to the Maryland Company, yes.

Q. State the average annual price received per gross ton for heavy standard Bessemer rails at producing works of the Pennsylvania Steel Company and the Maryland Steel Company in the years 1898, 1899 and 1900 respectively.

A. May I again refresh my memory?

Q. Yes, if you can do so and state the facts.

A. (After referring to memorandum.) In those years the Pennsylvania Steel Company produced very few standard rails. Almost all the product we made of that kind was made at the Maryland Steel Company's works, and I have not the figures for the Pennsylvania Steel Company.

Q. Have you the figures for the Maryland Steel Company?

A. I have those for the Maryland Steel Company, yes.

Q. Give those, then.

A. The average price per gross ton f. o. b. mill in 1898 was $19.44; in 1899, $22.42; in 1900, $29.78.

Q. State the annual average price at the mills of these companies respectively of Bessemer T-rails based on three or four of the largest contracts from 1896 to 1900.

A. (Referring to memorandum.) In 1896 the Maryland works were not operated. The average price received for standard Bessemer rails under the three or four largest contracts of the Pennsylvania Steel Company's works was $28.25. In 1897 the Maryland Steel Company's plant began operation. Their average price was $18.73. The price received at the Pennsylvania Steel Company's works that year was $21.37. In the year 1898 Maryland Steel Company's price was $17.94; Pennsylvania Steel Company's price was $18.49. In 1899 the Maryland Steel Company's price was $20.38, and the Pennsylvania Steel Company's price was $18.46. In 1900 the Maryland Steel Company's price was $30.30, and the Pennsylvania Steel Company's price was $32.97.

Q. State whether or not either of these companies, or both of them, were parties to a rail pool, about 1900, until sometime in the first part of 1905?

A. Yes, sir; we were.

Q. State whether or not competition in rails between the

Carnegie Steel Company, the Federal Steel Company and the National Steel Company was restrained by agreements during the period from 1900 to the end of 1904.

MR. LINDABURY: Objected to as calling for a conclusion.

A. That depends on what you call competition in rails.

By MR. DICKINSON:

Q. I will ask you another question. I think myself the question is open to objection.

You stated that your company was in a pool. Were those companies in the same pool?

A. The Federal Steel Company, no.

Q. How about the Carnegie Steel Company?

A. The Carnegie Steel Company, yes.

Q. How about the Illinois Steel Company?

A. The Illinois Steel Company, yes. And the National Steel Company for a short time.

Q. At what time was the National Steel Company in it?

A. It is very difficult to state these dates accurately, you know; I have nothing to guide me in it at all excepting my recollection of the facts. I should think it must have been in 1900.

Q. And how long, according to your recollection?

A. My recollection is that they were not in it very long—possibly a year.

Q. Beginning, as far as you recollect it, in 1900 and extending something like a year?

A. Something like a year.

Q. State all those manufacturers who were members of that pool during the period, say from 1899 to the end of 1904.

A. I think the pool did not exist in 1899. It began, my recollection is, early in 1900. The companies which were in that pool in the beginning were the Colorado Fuel & Iron Company, the Illinois Steel Company, Carnegie Steel Company, Cambria Steel Company, ourselves and the Lackawanna Steel Company. Subsequently I think the National Steel Company came in, after this pool was organized. The Colorado Fuel & Iron Company subsequently left the pool, and so did the Lackawanna Steel & Iron Company.

Q. You say that was formed in 1900, the early part of 1900. State whether or not in 1898 and 1899 the prices on steel rails were open; that is to say, whether competition was open in them?

A. Of course I can only speak for my own company.

Q. You met others in competition, did you not?

A. Yes; but I did not know whether they had a combination among themselves or not. The prices were open so far as I know.

Q. Were they or not uniform among all those companies you have named at that time, before the formation of the pool?

A. The prices would have to be very nearly uniform, because one mill would know what the other mills were selling at and would make about the same price or would not sell. Our prices would be pretty nearly uniform.

Q. So far as your plant was concerned they were open before the formation of this pool?

A. Yes.

Q. How was it after the formation of this pool; was there a minimum price agreed on?

A. There was no price ever agreed on.

Q. Was there a uniform minimum price list?

A. A price was observed, as indicated by these figures. You can see that the price varied somewhat. I can speak for my company only.

Q. I am speaking now as to the time after the formation of the pool.

A. I, of course, do not know absolutely what the other companies did. I cannot testify what their prices were. But if the prices had varied considerably from the understood price I would have known it.

Q. Then there was an understood price, was there?

A. There was a price which we had talked over and considered to be a fair price to ask for steel rails.

Q. Yes.

A. And these members in the pool had talked it over and considered that a fair price.

Q. State whether or not that was understood during that period as a minimum market price or not?

A. I do not understand that question.

MR. DICKINSON: Let the stenographer repeat it.

(The stenographer repeated the question as above recorded.)

MR. LINDABURY: Objected to as calling for a conclusion.

MR. DICKINSON: I will strike out the word "market" and let him answer the question.

MR. LINDABURY: The witness has said that there was no agreement.

MR. DICKINSON: I am asking now what there was.

MR. LINDABURY: I would not object to it if you asked him what there was, but you are telling him something and wanting him to say yes.

THE WITNESS: Will you repeat the question?

(The stenographer repeated the question as modified, as follows:)

"Q. State whether or not that was understood during that period as a minimum price."

MR. DICKINSON: At which the members of the pool would sell.

THE WITNESS: No member of the pool ever agreed to sell at any minimum price. We talked the matter over and considered what seemed to be a reasonable and fair price; but we were at all times free to charge any price we chose. As a matter of fact, we adhered pretty close to the price which seemed to be a reasonable price, but we were never controlled by any agreement; there was never any obligation to do it.

By MR. DICKINSON:

Q. After the formation of the pool state whether or not there was practically a uniform market price recognized in the trade and accepted?

MR. LINDABURY: I object to that. "Recognized in the trade and accepted" are two or three questions in one. The question as to uniform price is one question, but counsel incorporates in his question the suggestion that it was accepted and observed.

(The question, as above recorded, was repeated by the stenographer.)

MR. DICKINSON: Strike out "was accepted." Now answer the question.

THE WITNESS: When you say, "uniform price" does that mean that, during all those years you speak of, it was the same price, or that during a given period it was the same price—because prices varied?

By MR. DICKINSON:

Q. What I mean is this: Whether or not after the pool was formed at certain periods the minimum market price quoted was uniform by those who were members of the pool?

A. I do not know what the price was that was quoted by the other mills. I know what we quoted, and I think they must have quoted very nearly the same price, because if they had not we would have heard it from our customers. But I have no knowledge as to the prices quoted by these other people at all. I simply know that in talking the matter over their representatives expressed themselves as feeling that a certain price was a reasonable price, and as far as my mill was concerned we adhered as closely as we could practically to that price.

Q. Did you understand that the others expected you to agree to it?

A. There was not any obligation on our part whatever to adhere to it.

Q. I am not asking you if you signed any formal written agreement fixing prices, but I am asking you whether there was any understanding, verbal or otherwise, among yourselves, that that would be the price at which the members of that pool for a given period would sell.

A. I do not think there was. We were always, at all times, free to sell at any price at which we chose; but as a matter of fact we adhered, I think, pretty closely to the price which we had talked over and considered to be a reasonable one.

Q. How many makers of standard Bessemer rails in the United States were outside of that pool from the time of its formation down to the end of 1904?

A. When the pool began practically all the manufacturers of Bessemer steel rails were in the pool. Then, as I say, the Colorado Fuel & Iron Company left the pool; and, later

on, the Lackawanna left the pool. The Lackawanna left the pool at the time they discontinued the manufacture of rails at their old plant, and, of course, they were not manufacturers of rails, strictly speaking, when they left the pool.

Q. When did the Colorado Fuel & Iron Company leave it?

A. I cannot fix that date.

Q. When did the Lackawanna leave it?

A. They left it when their works at Scranton were shut down and I forget that date; but, of course, that can be ascertained very readily.

Q. Did the Lackawanna Company come back into the pool afterwards?

A. The Lackawanna Company came back into the pool when it resumed the manufacture of steel rails. That was early in 1905.

Q. So it really was out only during the period that it was not manufacturing steel rails?

A. That is true.

Q. Did you or not have a secretary of that pool?

A. No, sir; we did not.

Q. Did you have a commissioner?

A. We had a man to whom we used to make reports of the amount of orders taken and of the tonnage shipped.

Q. Did you have any apportionment among the members of the pool as to the percentage of rails that were to be sold?

A. Not of the rails which were to be sold. The amount of rails to be sold was always entirely free and open; we could sell as many rails as we could get orders for.

Q. Did you have some basis of apportionment or adjustment among yourselves or not?

A. When the pool was formed the question as to what would be a fair proportion of rails for each company to manufacture was discussed and talked over, and the percentage of rails manufactured was kept not by any artificial means, as I will explain later on, but was kept very closely to those percentages which we had talked over. But in discussing this matter and arriving at those percentages we were a good deal wiser, I think, than we ever realized, because the business which came naturally to all the mills was almost identical with the percentages which we had talked over.

Q. Did you assume a percentage of 100 and then apportion that among the various members of the pool, assigning to each a certain percentage of the 100?

A. That was practically what was done.

Q. What percentage did your company, the Pennsylvania Company, have?

A. Ours varied very considerably.

Q. From year to year?

A. Not from year to year, but from period to period, depending upon the number of mills which were in the pool. When the pool started I cannot recollect the exact amount, but I think we had something like nine per cent.

Q. Was that the Pennsylvania Steel Company?

A. That was the Pennsylvania Company and the Maryland Company together.

Q. The two together?

A. Yes.

Q. What did the Carnegie Company have?

A. I do not know.

Q. Was it larger than that?

A. It was larger than that, but what it was I cannot remember.

Q. Do you know what the Illinois Steel Company had?

A. I cannot remember.

Q. Can you approximate either of them?

A. My recollection is it was somewhere between 50 and 60 per cent. I cannot be positive.

Q. You mean the Carnegie Company?

A. The two together.

Q. Which was the larger of those two?

A. I do not know.

Q. How about the National Company; what percentage did it have?

A. When the National came in the percentages were changed. That was one of the changes that were made.

Q. As you increased the number of course the percentages varied?

A. Yes. What it had I do not know.

Q. Was there any money paid into that pool?

A. The mills which were ahead of their percentage, the

percentage they were supposed to manufacture, paid in money to that pool, based on the amount that they were ahead. The mills which were behind had money paid them out of the pool in proportion to the amount that they were behind.

Q. So after you agreed upon the percentages, if any member of the pool exceeded its percentage, it paid a penalty, did it?

A. It did not pay a penalty.

Q. Well, it paid money?

A. It paid money, yes.

Q. And that money went in to be distributed to those who were behind on their percentages?

A. Yes.

MR. LINDABURY: It was paid as an equalizer.

By MR. DICKINSON:

Q. How was that payment regulated—by tonnage?

A. By tonnage, yes.

Q. How much per ton did you pay?

A. The basis I am a little hazy about, but it was either the difference between $17 or $18 per ton and the mill price, the price the mill received; I forget which it was, but it was the difference either between $17 or $18 a ton and the selling price of the mill.

Q. How did you arrive at $17 or $18 a ton; how was that figure fixed?

A. That figure was fixed arbitrarily.

Q. What was it supposed to represent and why was it fixed?

A. It would lead me back of the time you are speaking of. Do you wish me to go into that?

Q. Yes, sir; you may state it as fully as you choose.

A. In 1898, I think it was, meetings were held by the manufacturers of steel rails, with an idea of forming a selling company which would represent all the mills, and in which the mills should be interested as stockholders on a certain basis. That basis was regulated by their capacity to produce rails, we will say. The proposition was that each mill should sell its rails to that selling company or agency at either $17 or $18 a ton. I do not remember which that was.

And then that the profits on the sales of these rails should be divided as dividends on the stock which each company held in that selling company. That matter came to nothing, but when this rail pool was formed that same figure was arbitrarily taken as a basis for this other arrangement.

Q. Was that fixed upon the basis of approximate cost to the manufacturer?

A. No; I do not think it had anything to do with cost.

Q. At any rate, that having been fixed, that $17 or $18 having been fixed, then any member of the pool who sold tonnage above his allotment had to pay the difference between that and the price he got; he had to pay that into the pool?

A. Yes.

Q. And that was distributed in the way you have explained. Did these different members make reports of their sales?

A. We made reports of the amount of sales and the amount of shipments.

Q. And the prices realized?

A. And the prices realized.

Q. The tonnage that was sold over and above the allotment?

A. Yes.

Q. When did this first meeting, at which the pool of 1900 was formed, or at which steps were taken for the purpose of forming it, take place?

A. I think it was in the spring of 1900, but I cannot fix the date.

Q. Where did it take place?

A. It took place in New York.

Q. At what place in New York?

A. I am uncertain, but I think at the Waldorf.

Q. Who were present at that first meeting?

A. Mr. Stackhouse, of the Cambria Steel; Mr. Walter Scranton, of the Lackawanna Steel; I think Mr. Schwab of the Carnegie Steel; I am not sure whether it was Mr. John Gates or Judge Gary representing the Illinois Steel Company; myself representing the Pennsylvania and Maryland Steels; and Mr. Osgood, representing the Colorado Fuel & Iron Company. I think those are the gentlemen. It is pretty difficult to remember.

Q. Was the arrangement completed at that meeting, or was that a preliminary meeting?

A. I cannot say how long it took to complete that arrangement, or whether it was completed in one day or whether we adjourned several times.

Q. You had other meetings, did you?

A. I say I am uncertain whether there were more than one.

Q. I mean after the arrangement was made?

A. After the arrangement was made.

Q. You had other meetings?

A. Yes; occasionally.

Q. How often did those meetings occur?

A. Very irregularly.

Q. You have given the first meeting. Now can you state who was present at the second meeting?

A. I cannot; but probably the same people. There was usually somebody to represent each one of the rail companies.

Q. Who represented, from time to time, the Carnegie Company at these meetings? What representatives did they have? What various representatives did they have there?

A. This is from 1900 to 1905?

Q. Yes. Who were the various representatives of the Carnegie Company?

A. Mr. Schwab, Mr. Corey and Mr. Dinkey at different times, I should think.

Q. Who were the various representatives at different times of the Illinois Steel Company, from the time of its formation?

A. Judge Gary, Mr. Buffington and, as I say, perhaps Mr. John Gates. I think he was present at that first meeting, or maybe at some of the early meetings.

Q. How about the National?

A. As to the National, Mr. Reis, I think, represented them; Mr. Will Reis.

Q. After the formation of the Steel Corporation in 1901, what officers or directors of the Steel Corporation were there from time to time?

A. Officers of the Steel Corporation?

Q. Yes.

A. Of their subsidiaries?

Q. Well, they may have been of both.

A. I know; but I want to be accurate.

Q. State whether or not Mr. Schwab was there, after the formation of the Steel Corporation.

A. Yes, sir; Mr. Schwab was there.

Q. Was Judge Gary?

A. And Judge Gary.

Q. Did you have a rail pool commissioner?

A. No, sir; we paid the money over to our attorney and he divided it up.

Q. Did you have a written agreement?

A. No; we never had a written agreement.

MR. DICKINSON: That is all.

CROSS-EXAMINATION.

By MR. LINDABURY:

Q. The years 1898 and 1899, of which you have spoken, were pretty bad years in your business, were they not?

A. They were the worst years, I think, that the steel business had since I have known anything about it.

Q. Everything was in a state of extreme depression, was it not, in the steel business?

A. That is very true.

Q. And was there a steel war on among the manufacturers during any part of that time ,in which there was destructive competition?

A. There was the closest kind of competition and the keenest sort of competition going on during those years, yes, sir.

Q. And it was attended with more or less of unfair practices, too? I do not want to particularize, of course, nor to ask you to do so.

A. I do not know what you mean by unfair practices, exactly. Of course there was the keenest kind of competition, and every influence and means that a skilled salesman could think of to secure the business was used.

Q. Including misrepresentation as to what your competitors were doing, and so on?

A. That always comes out in times of competition.

Q. And at times of such competition as this it comes out in an aggravated degree, I presume, does it not?

A. Yes, sir.

Q. The situation was pretty bad, was it not?

A. It was.

Q. Was anybody making money?

A. I do not think anybody made very much money in the steel business in those years.

Q. And I presume a very large number were losing money, were they not?

MR. DICKINSON: Only answer if you know. The question was that the counsel presumes.

THE WITNESS: Yes.

MR. DICKINSON: Do not go on his presumption, but go on your own knowledge. Whatever you know about it, you are at liberty to state.

THE WITNESS: I know in a great many lines of steel products we were losing money. I would not like to say that we were in all.

By MR. LINDABURY:

Q. I suppose you knew the general condition of the trade, did you not?

A. I was familiar with it.

Q. And you knew whether your competitors generally were making money or losing money, did you not?

A. I could only determine what they were doing by our own condition of affairs.

Q. It was your business, of course, to keep yourself informed as to the general situation of the trade, was it not?

A. Yes.

Q. And I have no doubt that you did, did you not?

A. Yes.

MR. DICKINSON: He has already said that he did not know about prices.

MR. LINDABURY: Yes, I understand that he has said that.

but with respect to a later period. He probably did not as to this period, either.

MR. DICKINSON: About what period are you asking him?

MR. LINDABURY: I am speaking about the period from 1898 to 1899.

By MR. LINDABURY:

Q. Tell me whether or not, so far as you could judge from your knowledge of the trade and the general business situation, the condition of your competitors was about like your own, in the respects you have referred to.

MR. DICKINSON: That is objected to, as the witness has not shown that he has a sufficient knowledge of the affairs of his competitors to answer the question.

THE WITNESS: My judgment would be that it was.

By MR. LINDABURY:

Q. You came together voluntarily, I suppose, in 1900, and formed this so-called rail pool? That is right, is it not?

A. Voluntarily, yes.

Q. What was the object of doing that, or what was the occasion for your doing that?

A. We had been through this period of keen competition and ruinous prices, when we did not make any money, and we thought that if we could get together and, by consulting with one another, and talking this matter over could increase prices, that we would all be benefited.

Q. So, when you came together, the pool that you formed had reference to proportions, as you said; but, at these meetings, or at other meetings you discussed the question of what would be fair prices? Am I right about that?

A. That is right.

Q. The matter of prices was not a part of your pooling arrangement, you have said. That is true, is it not?

A. No; there was no agreement to maintain a fixed price.

Q. I say your pooling arrangement did not extend to prices? You have so stated, as I understand. Am I right?

A. Well, in so far as the difference between this seventeen or eighteen dollars and the selling price of rails was con-

cerned, I think the pooling arrangement would be concerned with prices.

Q. But you did not attempt to fix prices; that is what I mean.

A. No; no.

Q. Nobody made any promise to observe any particular price, did they?

A. No, sir.

Q. It was not a violation of any promise or undertaking for anybody to fix any price he pleased, was it?

A. The question of what prices we should sell at was absolutely in our own hands.

Q. Yes.

A. Without violating any agreement or obligation we could have sold at any price we pleased.

Q. With regard to the price of rails you have given us some figures. Can you tell me the average price of Bessemer rails from 1891 to 1900, inclusive?

A. From 1891 to 1900?

Q. Yes.

A. The average price for those whole years?

Q. Yes; for that period; a little longer period than the Judge gave you. I think it will give us a better comparison.

A. Yes; I went back as far as I could.

Q. See if you have the figures. I do not know. That is a period of nine years, you see.

A. I made up a statement showing the average selling prices from 1891 to 1900 inclusive. That would be ten years.

Q. Yes.

A. The average selling price of rails at Pittsburg was $26.11.

MR. DICKINSON: What year is that?

MR. LINDABURY: Ten years; from 1891 to 1900, inclusive.

THE WITNESS: Yes; from 1891 to 1900, inclusive.

By MR. LINDABURY:

Q. Can you tell me the average price of Bessemer pig iron at Pittsburg during that period?

A. The average price of Bessemer pig iron at Pittsburg was $13.66 during that period; during those ten years.

Q. That would make the difference between the price of pig and the price of rails—

MR. DICKINSON: I want to know whether he is giving you the general market average price or the prices that his company sold at.

MR. LINDABURY: I was asking for the general market prices.

MR. DICKINSON: I do not think—

MR. LINDABURY: I will get it.

MR. DICKINSON: I do not want any misunderstanding.

MR. LINDABURY: I will ask him.

The WITNESS: The difference between that cost of Bessemer pig at Pittsburg and rails in that period was $12.45 a ton.

By MR. LINDABURY:

Q. Are these prices that you have given what you got or the general market prices at Pittsburg?

A. They are the market price at Pittsburg. They are taken from the reports of the American Iron & Steel Association.

Q. To go over the period about which Judge Dickinson asked you and extend it a little further: from 1901 to 1910 can you give me the same thing? First, the price at Pittsburg during that period?

A. The price of pig at Pittsburg during that period was $17.95.

Q. And that was an increase over the ten years before that of how much?

A. $4.29.

Q. That is, pig iron increased $4.29 during the second decade of the period. What about rails? Was there an increase in the price of rails?

A. The average price of rails during that ten-year period was $27.93.

Q. That made an increase over the previous decade of how much?

A. $1.82.

Q. So that while the price of pig iron increased $4.29, the selling price of rails increased only $1.82?

A. Yes, sir; that is true.

Q. Does the Carnegie Company sell pig iron?

A. I do not think they do.

Q. It has always been a buyer of pig iron, has it not?

A. I think so.

Q. I believe there is testimony to that effect.

This is a mere matter of calculation. Take the cost of pig iron during the last decade, $17.95, and the selling price of Bessemer rails at $27—

MR. DICKINSON: You say during the last decade?

MR. LINDABURY: From 1901 to 1910; I mean the last decade that he gave.

By MR. LINDABURY:

Q. (Continuing). What difference did that make between the price of pig and the price of rails?

A. $9.98.

Q. As against $12.45 during the preceding decade?

A. Yes, sir; that is correct.

Q. I think you said your trade was for the most part east of the Alleghenies?

A. That is true—well, in the Gulf states, and also on the Pacific coast; the points that are easily reached by water.

Q. I was about to ask you how you reached the State of California. By water, I suppose?

A. By water.

Q. The Illinois trade was confined largely to a district somewhat west of Pittsburg, was it not?

A. The general business of the Illinois Steel Company or simply rails?

Q. Speaking in a general way.

A. Naturally it would be—not confined, but would be largely concerned with the Mississippi Valley and that part of the country.

Q. You spoke of rails. Their rails were sold in the West, for the most part, were they not?

A. Yes, sir.

Q. And west of Chicago?

A. I think they sold some east of Chicago.

Q. Some; but I mean mostly west, were they not? Or do you not happen to know?

A. I do not know as to that.

Q. Do you know what the freight on rails is between Chicago and Pittsburg?

A. No; I do not.

Q. The freight item is a considerable one, is it not, on rails?

A. Yes.

MR. LINDABURY: I think that is all.

RE-DIRECT EXAMINATION.

By MR. DICKINSON:

Q. I want to ask one thing about those prices. Are they average prices, or how did you get them?

A. These prices? (Indicating memoranda).

Q. Yes. Are they average monthly or average yearly prices?

A. They are average yearly prices, taken from the reports of the American Iron & Steel Association.

Q. Those figures are just the same figures as are shown in the reports of the Iron & Steel Association. Are they an average of the total products?

A. They are the average market price of pig iron at those points.

Q. Then you spoke of rails, too?

A. That is the average price of rails at those points, as given in the American Iron & Steel Association reports.

Q. Would that be the average for the whole year?

A. The average for the whole year; and then the ten years average together.

Q. Did your company furnish average prices for those statistics? Or how are they made?

A. I do not know how those statistics are made up.

Q. What you are giving is simply a reproduction of those statistics?

A. Simply a reproduction of what Mr. Swank publishes each year in his statistical reports.

Q. And you are not giving it as of your own knowledge, but simply reproducing it from there?

A. I simply reproduce it from what he has stated in his annual reports.

Q. You were asked about the price of pig iron. When did you say the price of pig iron began to rise?

A. When did it begin to rise?

Q. Yes; you gave some dates. I did not put them down.

A. It varied up and down. The price of pig iron would vary up and down from year to year.

MR. LINDABURY: I will give it to you, Judge. He showed that the average price of pig iron from 1901 to 1910, ten years, was $4.29 higher than during the ten preceding years.

MR. DICKINSON: Yes. That is what I wanted.

By MR. DICKINSON:

Q. I will ask you: Is it not a fact that during that time most of the iron ore of the country had been taken up by large holdings?

A. Most of the iron ore of the country?

Q. Yes; most of the iron ore of which Bessemer steel rails were made had in that period been taken up in large holdings by large corporations?

A. That is, in which period?

Q. Following 1901.

A. I do not think that there were any larger holdings of iron ore, excepting by the United States Steel Corporation.

Q. That was formed in 1901, was it not?

A. Yes.

Q. Did they not have the largest iron ore holdings?

A. They had very large iron ore holdings.

Q. Larger than anyone else, did they not?

A. I do not know.

Q. You do not know that?

A. I do not know.

MR. DICKINSON: That is all.

We have two more witnesses, but as neither of them is here, we shall have to adjourn until to-morrow morning.

(Whereupon, an adjournment was taken until tomorrow, Friday, June 21, 1912, at 10:15 o'clock a. m.).

TWENTY-FIRST DAY.

ROOM 720, CUSTOM HOUSE, New York, N. Y.
FRIDAY, JUNE 21, 1912.

The hearing was resumed at 10:15 o'clock a. m., before SPECIAL EXAMINER HENRY P. BROWN.

Appearances as heretofore noted.

POWELL STACKHOUSE,

called as a witness on behalf of the United States, being first duly sworn, testified as follows:

DIRECT EXAMINATION,

By MR. DICKINSON:

Q. Where do you live?

A. Hanover, Pennsylvania.

Q. Are you engaged in business?

A. No, sir; not in active business.

Q. Were you at any time connected with the Cambria Iron Company?

A. Yes, sir. I am connected with the Cambria Iron Company yet.

Q. In what capacity?

A. I am president of the Cambria Iron Company; but that company was leased, along the latter part of 1900, to the Cambria Steel Company, who are the operating company, and they pay simply guaranteed dividends.

Q. Were you ever connected with the operating company?

A. Yes, sir.

Q. When did you cease your connection with the operating company?

A. Over two years ago; two years ago; in March, 1910.

Q. And for how long a period were you connected with the operating company?

A. Prior to the Cambria Steel Company and the leasing to it of the property of the Iron Company the Iron Company was the operating company.

Q. I thought you said the steel company was the operating company?

A. Prior to the leasing.

Q. Oh! Prior to the leasing?

A. Yes, sir.

Q. When was that leasing made, about? You need not give the exact date?

A. 1908 or 1909, I think.

Q. 1909?

A. Somewhere along there—no; 1898 or 1899.

Q. Were you connected with these companies, say, from 1892 up to 1910?

A. Yes, sir.

MR. LINDABURY: With which company? Will you not ask him?

MR. DICKINSON: With both companies.

MR. LINDABURY: I understood him now to say that he was connected with the operating company only until 1898 or 1899.

THE WITNESS: No, sir. The operating company, the Cambria Steel Company, was formed about 1898, if my recollection is correct. Subsequent to that time it leased all the property of the Cambria Iron Company, and guaranteed a certain rate of dividend to the Cambria Iron Company stockholders; so that the iron company is simply a holding company.

MR. LINDABURY: I did not mean to question you now, but I do not clearly understand when he says he ceased connection with the operating company, whichever it was.

MR. DICKINSON: I will ask him another question.

MR. LINDABURY: Yes.

By MR. DICKINSON:

Q. You were connected with the iron company when it was an operating company, were you?

A. Yes.

Q. And after it was taken over, you were connected with the Steel Company when it was an operating company?

A. When the Steel Company was formed I was then, up to 1910, I think it was, March, President of both companies.

MR. LINDABURY: Oh, yes.

THE WITNESS: And I have been President of the iron company since.

By MR. DICKINSON:

Q. Were you familiar with the competitive conditions in the steel business from 1892 to 1910?

A. Yes, sir; more or less.

Q. Please state what those companies made and what they sold in the trade?

A. Rails, plates, structural steel, merchant steels of various kinds.

Q. Did you make fasteners?

A. Yes; rails and fastening.

MR. LINDABURY: Fasteners?

THE WITNESS: Fastenings. That is, angle bars, bolts, nuts; the rail joints, in other words.

By MR. DICKINSON:

Q. In what territory, from 1892 to 1910 did those companies, which ever at the particular time was the operating company, sell their product? In what part of the country?

A. Their product was practically distributed over the United States. A certain class of products had not as wide a distribution as others.

Q. But it was generally sold throughout the United States?

A. All over, sir.

Q. State whether or not prior to 1901 your company was in competition with the Illinois Steel Company?

A. Yes, sir.

Q. In what product was it a competitor with the Illinois Steel Company?

A. Principally rails; rails and rail fastenings. At that time I think the Illinois made some structural steel and some plates. I may not be correct as to that. I know they did afterwards. My impression is at that time they were manufacturing them.

Q. In what territory was the Illinois Steel Company meeting your company in competition, on rails?

A. Generally in the west.

Q. Generally in the west?

A. In rails there was a certain area in which they came somewhat east of Chicago; but their large market was in the West and Northwest.

Q. Were you a competitor at that same time with the Carnegie Company?

A. Yes, sir; more directly because they were nearer.

Q. In what respect were you a competitor with the Carnegie Company?

A. In almost everything they and we made. We were in pretty nearly the same lines of goods. Of course they made a larger quantity, but we were in competition all the time.

Q. In what territory were you in competition with them?

A. On rails, particularly, the territory east of Chicago and South.

Q. South.

A. Southwest of Pittsburg, through Tennessee and Kentucky, Illinois, Indiana and Ohio; and then, of course, Pennsylvania.

Q. Did the Illinois Steel Company sell in that territory too?

A. More or less; not so much. They did not come east so much.

MR. SEVERANCE: The witness started to say Illinois and, I think, Indiana. I think he intended to say Indiana.

THE WITNESS: In Southern Illinois we went in some cases; and in some cases we went right into Chicago. Not often.

By MR. DICKINSON:

Q. State whether or not, prior to 1901, your company was in competition with the National Steel Company, and if so—

A. (Interposing.) When was the National Company organized?

MR. COLTON: The latter part of—

MR. LINDABURY: One moment, wait.

MR. COLTON: It is a matter of record.

MR. LINDABURY: I do not care if it is. You are testing the witness' recollection.

THE WITNESS: I cannot fix the date, of course, but we were

for a time in competition with the National Steel Company, Mr. Wick's concern. I cannot give you the date, sir. It may have been later than that.

By Mr. Dickinson:

Q. State whether or not shortly after its formation they went into the business.

A. Shortly after the National Steel Company was formed. For a while I do not think they rolled rails. They rolled tin plate bar and other products and finally got into rails.

Q. You do not know the exact date?

A. No, sir.

Q. But whenever that was, you were a competitor?

A. For a short time, yes, sir.

Q. In what territory?

A. That would be principally in Ohio.

Q. Principally in Ohio?

A. Yes, and west and south of Ohio.

Q. State whether or not there was competition in rails between the Carnegie Steel Company and the Illinois Steel Company in 1896 and 1897, and, if so, what was the character of the competition.

Mr. Lindabury: How can the witness know that?

Mr. Dickinson: I do not know whether he knows it or not. I am asking him.

A. I do not know anything about the dates. There was at one time what was known as a breaking up of the agreement between Mr. Frick, Mr. Leishman and Mr. Gates. Mr. Leishman was connected with the Carnegie Steel Company—Mr. Frick and Mr. Leishman. Mr. Gates was with the Illinois Steel Company. There was a very savage competition at that time for a short time.

By Mr. Dickinson:

Q. State whether or not that was before the formation of the United States Steel Corporation.

A. Yes, that was before the formation of the United States Steel Corporation.

Q. You say that that fierce competition or savage competition, as I believe you called it, came after the breaking of an

agreement. What was that agreement; what was the character of the agreement?

MR. LINDABURY: Does he know?

MR. DICKINSON: I do not know whether he knows or not.

MR. LINDABURY: Let us find out.

A. I could not now give you any details. We had been working together under a certain understanding. Whether that was a written agreement or not I do not know. I do not think it was a written agreement, I do not know whether it was or not. There were some infractions on the part of the Illinois Company or the Carnegie Company of that agreement that raised the ire of either one or the other—and which one it was I do not know. I rather think it was the Carnegie Company that made some break, and that stirred up Mr. Gates——

By MR. DICKINSON:

Q. Who were the parties to that agreement? Who were the members of it?

A. I do not know that there was any manager really. I think all the rail companies of the country at that time were in it. I do not think there were any outside.

Q. What kind of an agreement was it? Please state the substance of it. What did it provide for? I do not mean to assume it was a written agreement, but what was the understanding?

A. In a general way it was the maintenance of prices.

Q. You say that one or the other of them broke away?

A. There was some infraction of it. Of course I knew at the time the details, but do not know them now.

Q. How long had that agreement been in existence prior to this break you speak of?

A. I do not know. There had been an agreement among the rail people extending back since the time of the Pneumatic Association when steel rails were first made.

Q. What kind of agreements——

A. The Pneumatic Association——

Q. I do not ask you about the Pneumatic Association.

A. You wanted to know what kind of an agreement.

MR. LINDABURY: Will you not give the date?

MR. DICKINSON: He says he does not know the date. Read the last few questions and answers.

(The stenographer read the last few questions and answers as above recorded.)

MR. DICKINSON: Answer that in your own way.

THE WITNESS: The Pneumatic patents were owned by Griswold, Winslow, Morell and others, and they licensed each rail maker to make steel rails. It cost them a good round license. Then I believe all the rail makers were interested in the ownership of those patents equally. So you can see how it operated.

By MR. DICKINSON:

Q. When did that begin? You have spoken of the Pneumatic Association.

A. I cannot give you the date, but some time in the Seventies—1873 or 1874, I think.

Q. You say from then on there were agreements among the rail makers?

A. That agreement, the Pneumatic agreement, was the basis of the agreement between the rail makers, where the royalty was decreased and practically became nominal, for a great many years.

Q. And after that were there other agreements?

A. Yes, sir. They kept an association.

Q. They kept an association?

A. They kept in contact with each other. Though there was no——

Q. Were there——

MR. SEVERANCE: He had not finished his answer. Let him finish.

MR. DICKINSON: I thought he had finished. Had you finished your answer?

THE WITNESS: Yes, I think I have answered your question.

By MR. DICKINSON:

Q. Were these agreements constantly adhered to, or did they break up from time to time?

A. They were interrupted from time to time by somebody

getting greedy or doing something that he had agreed not to do.

Q. And what would that result in?

A. It would generally result in a conference.

Q. How would it affect the prices temporarily, before you had a conference?

A. It would be very apt to affect the prices, and in some cases it was smoothed over.

Q. You say it did affect prices?

A. It reduced them.

Q. And you say there would be a conference?

A. Generally there would be a conference.

Q. What characterized those conferences; what was done at them?

A. We talked over the business situation.

Q. State what they would do.

A. That is it, sir; they talked over the business situation, and generally the party who had been naughty agreed not to be naughty any more, or something of that kind.

Q. And you would go on again?

A. We would go on again, yes.

Q. And then would you have any other trouble?

A. We would go along for a while, and then there would be a little flare-up, perhaps. That was back in the seventies and eighties. During that period Mr. Robert Kennedy was secretary of the Pneumatic Association, and he managed all the affairs of the association. He was the business man.

Q. State, Mr. Stackhouse, how long the agreements which you say were renewed from time to time, continued.

A. The agreements under that form continued until after the Illinois and Carnegie row.

Q. State whether or not after that an agreement was formed, and, if so, when.

A. They rather came together again.

Q. How long after the row?

A. I could not tell you. Probably a year, or maybe a year and a half.

Q. Was that before the formation of the United States Steel Corporation?

A. I think it was, yes, sir.

Q. State who were the parties to that agreement.

A. That covered the same parties, I think, substantially all the rail makers. There were only a limited number of them.

Q. Mr. Stackhouse, referring now to the agreement entered into after the trouble between Carnegie and the Illinois Steel Company, please state whether or not there was any understanding among the parties to that agreement as to a minimum price in respect to the sales by them of steel rails?

A. In a general way, that was the basis of all the agreements—an understanding as to prices. That was what the rail makers met for—with the view of getting a fair price for their product.

Q. With the view of affecting and maintaining prices?

A. Yes, sir.

Q. State whether or not under that agreement there was an apportionment among the different members to the agreement of percentage of output?

A. Yes, sir; there was.

Q. Do you recall——

A. (Interposing.) In nearly all the agreements, way back from the beginning, after the Pneumatic Association absolutely dropped out as a controlling factor in their large royalty, I think that the basis of the agreements—there were two bases; one was an agreed amount to be made and the other was the price. These were the two leading points.

Q. Before the formation of the United States Steel Corporation, who at the meetings of those who were in this agreement represented the Carnegie Company from time to time?

A. Several parties. They changed; their organization changed. As a rule, I think it was their president.

Q. State who the individuals were from time to time?

A. How far back do you want me to go?

Q. I want to begin after the trouble between Carnegie and the Illinois, and continuing down—did that agreement continue until 1904?

A. I do not remember the date.

Q. Did it continue for some time after the formation of the United States Steel Corporation?

A. Yes, sir. Well, the Carnegie Steel Company, during

the period you wish to get at, was represented by Mr. Frick sometimes, and sometimes by Mr. Leishman, and in the latter part of the time by Mr. Schwab, who was then president of the——

Q. (Interposing.) Who represented the Federal Steel Company or the Illinois Steel Company?

A. Usually Mr. John W. Gates.

Q. Did anybody else represent it so far as you recall?

A. I think Mr. Gates represented the Illinois Steel Company right along up to the time of their absorption by the United States Steel Company.

Q. Did it continue for a while after the absorption by the United States Steel Corporation?

A. This agreement?

Q. That or a like agreement?

A. About the time, or sometime after the trouble or the break in prices—by that time the Federal Steel Company was formed. That covered the Illinois.

Q. That took in the Illinois Steel Company?

A. Yes. North and South Chicago.

Q. Who represented the Federal Steel Company in those meetings from time to time. Mention the various ones.

A. I think Judge Gary at some of the meetings. At one or two of the meetings I know he was present. It was not a very long time, as I remember it, between the formation of the Federal Steel Company and the formation of the United States Steel Company. I do not know what the period was. It was not a year; I don't know; I cannot answer that.

Q. State whether Mr. Buffington was there at any time?

A. Mr. Buffington has represented the Illinois Steel Company, but Mr. Gates was the active member of the Illinois Steel Company.

Q. But after it was taken over by the Federal you say Judge Gary was there part of the time?

A. My recollection is that he was. I don't think we had a very great many meetings, but the Judge was prominent at least. Mr. Buffington may have been there; I cannot answer.

Q. State whether or not your company, or either of those companies that you have spoken of, was a party to an association called the Structural Association?

A. Yes, sir.

Q. Do you remember about the time that was formed?

A. I cannot give you the date of that. There had been one prior to that, but after this trouble with the rails, the reduction and cutting in the price of rails, everything was wide open and prices of all classes of steel went way down below cost.

Q. How long did that continue?

A. A part of the year at least, and maybe more.

Q. Who were the members of this Structural Association?

A. At that time the Carnegie Steel Company, the Illinois Steel Company, Cambria, Phoenix, Pencoyd, Passaic, and I think the Roeblings of Trenton. I think they were in.

Q. Do you recall whether or not the Universal Construction Company was in it?

A. Yes, sir; I think they were in for a short time. That was, as I remember it now, a construction company in the interest of the Chicago mills, for the purpose of handling—

Q. What do you mean by the Chicago mills?

A. I mean practically the Illinois Steel Company.

Q. How about the Pottsville Iron & Steel Company? Was that a party?

A. I think it was; yes, sir; Atkins, yes, sir. There were in the neighborhood of ten or a dozen, I think, altogether.

Q. Do you remember about the date at which this was formed?

A. No, sir; I do not. It was formed, as I think I stated before, following the break in rail prices; after the market had been flooded with steel at less than cost.

Q. State whether or not it continued down until sometime after the formation of the Steel Corporation?

A. Yes, sir; it continued until some date when we were advised by our legal advisers, that, due to certain laws or certain decisions, it was not lawful. Everything was then absolutely cut off.

Q. State whether or not this agreement provided for percentages of product for the various members.

A. Yes, sir; it provided for percentages of product, and the prices were fixed at the general meetings.

Q. Was money paid in by the different members?

A. In some of those pools—I do not remember which—there was a penalty. In other words, as I remember it, if you over shipped your percentage you paid a certain penalty, and that was distributed to those who were short in their percentage.

Q. Did you have a commissioner?

A. Yes, sir; there was a commissioner, or secretary, practically.

Q. Did you make reports to him?

A. Yes.

Q. State whether or not he made reports to the various members?

A. He did.

Q. Showing sales?

A. Showing substantially the result of each month's business; what each party had shipped. He tabulated, really, the facts received from all the various members.

Q. State whether or not, until the time you were so advised and disbanded, as you say, you operated under that agreement?

A. Yes, sir.

Q. And the other members operated also under it?

A. Yes, sir.

Q. State whether or not your company was a party to an association called the Plate Association?

A. Yes, sir. We were not in that Association at the beginning. When the Cambria put up plate mills we were asked to join it, which we did.

Q. About what time did you join it?

A. Now you have me.

Q. Was that before the formation of the Steel Corporation?

A. I could not answer that. It was near that time. It may have been a year or so after, or it may have been a little before.

Q. How long did you continue in that Association?

A. Up until we were advised it was unlawful to do so.

Q. At the same time that you discontinued the Structural Association?

A. All of the Associations were dropped like hot cakes,

at one time, when they began to burn, or when we felt we were liable to be burnt.

Q. Without going over the details, state whether or not the features of this Association in regard to a commissioner, the apportionment, and prices, were substantially the same as in the other case?

A. Yes, sir.

Q. And you and the various members operated under that?

A. Yes. I do not remember what the pool tax was, but it was changed from time to time. I think it got down probably to a tenth of a cent a pound, or something like that as a minimum.

MR. DICKINSON: That is all.

CROSS EXAMINATION.

By MR. LINDABURY:

Q. Mr. Stackhouse, how long have you been in business?

A. I have been in active business from 1856 to 1910.

Q. I do not know whether you gave your age or not. What is your age?

A. I shall be seventy-two in a few days.

Q. I take it that two or three years ago you practically retired from active participation in business?

A. In March, 1910, I think it was; a little over two years ago; between two and three years ago.

Q. I understand you to say that your memory for dates is not very good any more; or perhaps it never was good?

A. It was never very good. I have always depended on data. I have always made it a point to go to references for dates.

Q. These different association agreements are not quite clear in your mind as to dates?

A. Not as to dates. Only the general tenor of them.

Q. And, together, they rest in your memory rather as a whole than as individual affairs, I suppose, do they not?

A. Oh, no, I think I could separate them, in a general way.

Q. Yes. Was there any particular distinction or difference between those that preceded the Gates and Carnegie row? Or do you remember them all as pretty much the same?

A. As I say, I go back to the starting. Up to that time, or shortly before that time, they were all practically based on the Pneumatic Association agreement, which was the father of them all.

Q. That was in the seventies?

A. Yes. At one time the pool tax, I think, was $5 or over per ton of rails that every member paid in. Then, you see, they were all equal holders in the patent Association, and they all got their dividends back; so that it operated just the same as some of the later pools. Then that rate was reduced, from time to time, until it finally became almost nominal. That was prior to the break in the rail trade.

Q. How nearly can you fix the time of what you call the Gates and Carnegie row?

A. That was somewhere in the nineties; in the latter part of the nineties.

Q. About 1897, or somewhere along there?

A. Somewhere along there; from 1895. I would not be sure of that.

Q. And that was followed, I judge, from what you say, by rather a fierce trade war, lasting a year or two?

A. Yes; in all lines of steel.

Q. In all lines of steel?

A. Yes, everything. As the result of that, there was the keenest competition, and steel was sold, bar steel, at, I think, less than nine-tenths of a cent.

Q. And it cost more than that to make it?

A. Yes; a good bit more.

Q. And the consequence of this was very serious to the trade, was it not?

A. It was serious to everybody in the trade. It was very serious, for instance, to the warehouse men that had some thousand or more tons of steel, or whatever they might have on hand. Their stocks were probably reduced from one or two cents a pound way down.

Q. That warfare left a trail of ruin?

A. Yes, it did.

Q. And there were a great many failures on account of it?

A. Yes.

Q. And general business disaster?

A. General depression.

Q. And business disaster?

A. Yes, sir.

Q. And failure and bankruptcy?

A. Yes, sir.

Q. (Continuing.) Were the direct effect of it, were they not?

A. Yes.

Q. You had had trade wars before, I suppose, had you not?

A. Yes.

Q. But none so severe as that?

A. None so severe as that.

Q. But they were always attended with injury to the business, and especially to the warehousemen or middlemen, were they not?

A. Yes, sir. The middleman had bought and had his material on hand and, overnight, by the price falling a few dollars a ton——

Q. (Interposing.) He was ruined?

A. He was ruined, in some cases. Some of them carried very large stocks.

Q. The effect, I suppose, of such warfares, and particularly the Gates and Carnegie warfares, was felt mostly by the weaker concerns in the business?

A. We all felt it.

Q. You all felt it, but the stronger ones weathered it?

A. Certainly.

Q. And the weaker ones all went to the wall?

A. They were weakened so that they gradually dropped out.

Q. They gradually dropped out?

A. Yes, sir.

Q. So the effect of that was not confined to the manufacturers, but was felt even more by the warehousemen and jobbers, was it not?

A. Yes. They could measure their loss at once. If they knew what their inventory was and the difference between what they paid and what prices had fallen to, they could measure their loss at once.

Q. What about the retailers? What was the effect on them?

A. The same thing. Anybody that carried a stock of steel or iron on hand, if the value of that stock was reduced five or ten dollars a ton, just simply had to write off that amount.

Q. Could you estimate the failures and bankruptcies resulting in the country from that Gates-Carnegie war?

A. No, sir; I have no idea what it was.

Q. It would take large figures to represent it, probably?

A. I have no doubt that it would be very large. I have no idea what it was.

Q. Then the manufacturers got together, after a year or two of that, and formed a new association?

A. Yes, sir. They were forced to do that. Everybody was working, almost, at a loss; and it was a question even for the stronger ones to keep the sheriff away from their doors.

Q. Yes. It was a necessity, if they were to live?

A. That is true.

Q. It was then, after the end of that, that these various associations were formed, I take it, from what you say,—structural and plate as well as rail?

A. Yes. I believe those associations had been in vogue before, while we were not members of them; we were not manufacturing structural steel or plates; they had been in vogue years before, away back, I do not know, really, how long; but away back in the eighties, I guess.

Q. I wonder what the effect of this Gates and Carnegie war was on labor?

A. It reduced everybody. We were looking everywhere to reduce our costs, and labor got its share of it; it could not help it.

Q. What did wages go down to for common labor? Less than a dollar a day, was it not?

A. Yes, it was in that neighborhood. Of course, I do not remember now, but I know it was low. We got them down low. We had to.

Q. And, if I remember right, that was the time when there was a line of soup-houses extending from New York to Chicago, was it not?

A. I do not know about that.

Q. It was the soup-house era, was it not?

A. Yes; it was favorable to soup-houses.

Q. The association of the rail makers, as you say, provided in some way or other for an apportionment of the output.

A. Yes.

Q. There was no limitation on what they should make?

A. No.

Q. But anybody who made more than an apportioned amount paid something, which was gotten by him who made less?

A. That is right.

Q. The apportionment was not in tons, but was in percentages, was it not?

A. In percentages, yes.

Q. Yes. The amount was not limited, but it was a percentage of what could be sold; what the country would take?

A. Under the original associations, when the Pneumatic was a live factor, they did not need percentages, because the tax—

Q. (Interposing.) Took care of it?

A. If you made fifty thousand tons more than your percentage, you probably paid five dollars or more for that excess. It went into the association, and you only drew—there were, if I remember, eleven mills at that time who were owners of the pneumatic patents. You, of course, got back one-eleventh if you made just your exact proportion; that is, if just one-eleventh of the total was made by any mill, of course their dividend equalled what they paid in.

Q. Times improved in 1900, did they not?

A. Yes. My recollection is that they improved along in 1901; and then they went down.

Q. Do you remember when they went down?

A. In 1903, along there before 1903. We had a big dip there.

Q. Along about that time. Do you remember whether this rail association was active after times improved? I take it your association did the most business, or were most carefully attended and kept up when times were bad? I only ask if you remember.

A. No, sir; I think the associations were kept up pretty steadily.

Q. Pretty steadily?

A. Yes, sir. They were right along, even when times were good. The meetings were well attended, and of course, whenever it came to a severe depression, and any irregularity in prices, it was generally a reason to get together and talk matters over.

Q. Speaking of the rail association only, distinguishing that from the others, when you met did you discuss business conditions at your various business meetings?

A. Oh, yes; certainly.

Q. And tell each other about your business?

A. As a rule, yes, sir.

Q. And the prospects?

A. About the orders and prospective orders. For instance, one would know that such and such a railroad was likely to place an order for a certain amount of rails; and another one would know about another district; and those things were generally discussed and talked about.

Q. Speaking of this time after the last association was formed, you did not make any agreement as to prices, did you?

A. Which association do you mean?

Q. You have said that you apportioned the output, as Mr. Felton told us yesterday. Was Mr. Felton an attendant at these meetings?

A. Yes, sir.

Q. But you did not, at those meetings, make any agreement as to prices, did you? These later meetings of the rail association, I mean. Never mind about the structural or plate associations.

A. I do not know that you would put it as an agreement, but we all discussed the matter as to what was a fair price for rails, and we talked it over.

Q. Undoubtedly.

A. And it was maintained that way.

Q. But did you ever undertake or agree that you would maintain a particular price and that you would not sell for any less?

A. We have done that.

Q. I know, in the past, but I am speaking of the last few years.

MR. DICKINSON: What few years do you mean? I wish you would specify.

MR. LINDABURY: The last few years of the period before they finally gave up.

By MR. LINDABURY:

Q. I am speaking only of the rail association.

A. In a general way there was a minimum price, I think, that we among ourselves agreed we would maintain. Every once in a while we could get more for rails than the minimum price, and we have done it.

Q. I want you to be sure about that. Do you recollect, definitely, when it was, at what period it was, that you agreed as to the minimum price?

A. No; I cannot give you the dates.

Q. There undoubtedly was a time when the rail makers agreed on a minimum price?

A. Yes, sir; and I know we sold rails, and I have sold quite a good many rails above the minimum price.

Q. I understand. And the agreement upon the minimum price lasted through various associations, for a number of years?

A. Yes. More or less.

Q. More or less?

A. There were two things, as I told you—

Q. Never mind that. You have told us that already—

MR. DICKINSON: You are not giving the witness a chance to answer.

MR. LINDABURY: The two things were price and output.

MR. DICKINSON: If you have anything that you want to state in answer to that question, just state it, Mr. Stackhouse.

THE WITNESS: In all our associations there were generally two essentials; one was a proportion which you could make, and the other was the price. Those two things I was about to refer to.

By Mr. Lindabury:

Q. You have told us about that, in your direct examination?

A. Yes, sir.

Q. You do not mean to add to or change that?

A. No, sir.

Q. That characterized the earlier group of associations, did it not? Those two objects, I say, were leading, or did lead in the earlier associations?

A. In the earlier associations the members were all equal holders of Pneumatic stock. At that time, during that period, as I remember it, there was no limitation as to price. You could sell rails at any price, but you had to pay $5 a ton, or whatever it was, whatever the tax was, at the time.

Q. Very well. What I am asking for is to know whether or not your recollection is clear and definite during the last period of these pools, the period after 1900 and down to the final giving up, whether there was then any agreement among you to maintain prices.

A. There was an adjustment, there was a certain adjustment made up to that time, if any one made more than his percentage.

Q. But that was the whole arrangement then, was it not?

A. Yes, sir.

Q. An adjustment with respect to the proportion of the output, was it not?

A. That was really the key of the later agreements, as I remember them.

Q. That was the whole thing, was it not?

A. Yes, sir.

Q. You did not, during the latter period, of these monthly meetings, pass upon or fix a definite price, did you?

A. As I remember, we were free to make any price we saw fit.

Q. Yes——

A. But we had to pay a certain percentage.

Q. That is it; a certain penalty?

A. Though we all discussed these things, and I do not think there were any infractions or any breaking away from the price.

Q. The penalty you paid was for exceeding an apportionment, was it not?

A. Yes.

Q. You never paid or agreed to pay a penalty in respect to a price, did you?

A. I think not, no.

Q. It was only in respect to the apportionment?

A. I think it was the excess over what the parties were rated at.

Q. That was the whole of it, was it not?

A. That was the key, I think, really of the later agreements. That is, as to rails.

Q. When was it that Mr. Gates dropped out of the business?

A. He dropped out on the formation of the United States Steel Corporation, I think.

Q. And he took no part in the association?

A. Not in the meetings.

Q. And was not engaged in manufacturing, was he?

A. Oh, I think he was largely interested in the United States Steel Corporation. He was one of their directors, was he not?

Q. No, he never was.

A. Was he not? Well, I have no doubt he was interested in it, and of course a number of companies.

Q. Was he a director in any steel corporation after the United States Steel Corporation was formed?

A. I think he was in the Tennessee Coal & Iron Company. He was an influential man. Whether he was on the board or not I do not know.

Q. He was an influential man generally, but was the Tennessee Coal & Iron Company a member of the Association? It was not, was it?

A. I do not think they were active.

Q. Speaking of the competition of the various concerns, you have said that the National's business was confined chiefly to the west—Chicago and the west?

A. That was their natural market.

Q. And you stated that competition with you in rails was only for a short time, and very slight?

A. Only for a short time.

Q. And very slight?

A. They were not very active in the rail trade. They had other lines, and finally they put in a rail mill, and then——

Q. (Interposing.) Their principal business was manufacturing for their finishing mills, was it not?

A. I believe so, up to a pretty late date. Tin plate bar and billets for their Youngstown mills.

REDIRECT EXAMINATION,

By MR. DICKINSON:

Q. How many of those who made rails and who were in the pool when Carnegie and Gates began their fight failed, if any, and were not in the pool that was formed after the fight was over?

A. In the rail business I do not think there were any. They all remained in. Some of the mills—the Illinois people, you know, when they organized the Federal, they took in several of those old mills.

Q. They were absorbed by other companies?

A. Yes.

MR. LINDABURY: I would like to have that read.

(The stenographer read the last question and answer as above recorded.)

MR. DICKINSON: Have you finished your answer?

THE WITNESS: They took in the Cleveland mills and the North Chicago and the South Chicago. All those mills as rail mills were gradually abandoned.

By MR. DICKINSON:

Q. That was after they were taken in by the Steel Corporation?

MR. SEVERANCE: He said the Federal. I object.

By MR. DICKINSON:

Q. When were they abandoned?

A. About the time of the organization of the Steel Company. I think they were more or less active up to that time.

Q. Take the makers of plate; how many makers of plate

between the time the row began between Carnegie and Gates and before the formation of the plate pool failed, if any?

A. I could not answer that directly, but it was just like the rails. They dropped out. The less favorable ones dropped out. They wound up their affairs and quit business.

Q. Which ones wound up?

A. These mills at Pottstown. They gradually went out of business.

Q. Do you understand now that my questions——

A. (Interrupting.) I cannot tell you of any actual failures now. I cannot remember any specific cases. I know in a general way.

Q. Do you know who were the members of the plate pool before the fight between Gates and Carnegie?

A. No, sir; I do not. I was not in the plate pool. We had no interest in the plate pool at that time, nor until very much later.

Q. Do you know any makers of plate that failed between that time and the formation of the United States Steel Corporation?

A. I could not name any, but in the whole trade, in many of the small mills, there was a general tired feeling. They got tired and they quit. They may not have actually failed, but they quit.

Q. How about structural steel? How many failures were there in the structural steel business?

A. I cannot answer that; I have no record. The same thing went through almost all trades, in all lines in the steel business. Of course, in the rail trade there were no failures. They were generally strong.

Q. I am speaking now of structural steel makers.

A. When you get down to the lighter trades, there were a great many; in the smaller mills there were a good many failures, but I cannot give you the names.

Q. Was there any failure of any large maker of rails or structural material or plates?

A. No, sir; those things, as a rule, were made by the same parties.

Q. They were made by the same concerns?

A. Yes. For instance, we had a rail mill, and by and by

we added a plate mill, and then we were making structural steel.

Q. So you cannot name any concerns that made rails or structural material or plate that failed?

A. No; no absolute failures; but a good many of them got tired, particularly in the smaller lines.

Q. People frequently get tired if they get low prices.

A. That is true.

Q. And everybody wants high prices?

A. Yes. And they got very tired on those low prices.

Q. I would like to have you state whether or not the members of this pool or association of rail makers that was formed after the Gates and Carnegie row, which continued down to the time you say, agreed—not in writing, necessarily, but with each other—that they would maintain minimum prices on rails?

MR. LINDABURY: He has already answered that.

MR. DICKINSON: I don't know whether he has or not.

A. In a general way. I do not know whether you could call it an absolute agreement. I cannot say that there was any absolute agreement, but the result was that.

By MR. DICKINSON:

Q. The result was that?

A. Yes, sir; the facts were that we did not want to sell our product at a less price than anybody else. We wanted the last dollar we could get for it, naturally.

Q. Did you understand, each with the other, that you would maintain those minimum prices?

A. Practically. I do not remember now that there was any absolute agreement, but it was a general understanding that the price of rails was thus and so.

Q. State whether or not each expected the other to maintain that price?

A. Yes, sir; we did. I think we expected our competitors to maintain about that line of prices, and we maintained them. There was no desire on our part to sell our rails for less than the other party was getting for them. Sometimes, as I have told you, we got more than the other party.

RECROSS EXAMINATION,

By Mr. Lindabury:

Q. You endeavored to satisfy yourselves as to what was a fair price, did you not?

A. Yes.

Q. Was not the principal object of the discussions you had upon that subject to ascertain what would be a fair price, all things taken into account?

A. Yes, sir. We tried to work on that, and in fact——

Q. (Interposing.) And all you did was to reach some sort of view with respect to what would be a fair price and then every man was left free to charge it or not, was he not?

A. Largely. Well. The fact that rails were maintained on a $28 basis, when every mill in the country could have sold at from $30 to $35, was simply because there was an understanding.

Q. What is that statement?

A. I say rails were maintained and sold at $28 when they could have been sold readily, in large quantities, I think, for $35.

Q. The understanding was you would not put the price up?

A. We did not put it up and we would not.

Q. There were times when it seemed as if conditions justified a higher price?

A. They did justify a higher price, and we could have gotten higher prices, but one mill was selling at $28, and you could not very well go to your customer and ask him $30 or $32, or $33, because if you did he would not come to you next year.

Q. Exactly; and one could not get a higher price than the others?

A. Not very well. They did in some isolated cases——

Q. I understand, but not generally?

A. Not generally.

Q. The rails were of the same class?

A. Yes. I am speaking of Bessemer rails.

Q. And if you, for instance, held to the price of $28, others could not get more?

A. Take, for instance, any of the leading trunk lines. Their orders were apt to be distributed to two or more works, perhaps three or four works in some cases, and if one company sold them at $28, the others could not sell at $29 or $30.

Q. Of course that would be so. Now, as a matter of fact, the cost of manufacturing rails was increasing during all this period we are talking about, was it not?

A. Yes. Ever since the low prices of the Carnegie-Gates episode, prices of production, the cost of production, has been increasing all the time. I do not know what labor costs now; at least I could not give any accurate percentages, but I would say 50 or 60 per cent in some lines more than it did cost.

Q. That increase in cost has been due to the rise in wages all along the line, from the ore up to the finished product, has it not?

A. Everything that goes into manufacturing. A ton of steel or a ton of rails represents labor in some form or other, beginning with the work in the mines. Of course there is a little royalty to be taken into consideration. Then the value of the mineral in the ground is one thing; but after that, labor enters into every step in the production of iron and steel. If labor does not touch it it remains in the ground; if labor touches it it touches it in every possible stage until it becomes finished steel. When it comes to transportation, of course there is a slight portion of that that is not labor, because there is capital and interest to be taken into consideration; but otherwise the cost of a ton of steel means labor all the way through.

Q. And the cost of labor all along the line has been steadily increasing, has it not?

A. It has been increasing all the time, and it is increasing now.

Q. On this account the margin between the cost of making rails and the $28 price has constantly diminished, has it not?

A. Certainly it has, very much.

Q. On that account there were frequent discussions at your meetings as to whether or not the price of rails ought not to be increased?

A. Some of us wanted to increase it.

Q. Was there ever any discussion as to whether the price should be reduced?

A. The price at one time was above $28, and we did reduce it.

Q. I am not speaking of the earlier days, but after the price became, let us say, $28?

A. Not after $28 was the price, no.

Q. Was there any discussion as the whether the price should be reduced?

A. Oh, I do not think so; I do not think any of the makers had any wish to get the price below that. Their costs, as you have stated, have been constantly appreciating.

Q. And any question that ever arose was as to whether or not the makers ought not to get more for their rails?

A. I want to say there, if it is pertinent, that it was the efforts of the United States Steel Company more than any of the individual makers that kept the price where it is. I think the independent makers, as a rule, would have advocated putting the prices up if they had felt that there had been any possibility of doing so, of getting the assent of the United States Steel Corporation.

Q. So, at these meetings you have referred to, when there was a discussion as to the raising of the price, the attitude of the Steel Corporation was always against an increase of prices, was it not?

A. Yes.

Q. And it was because they maintained that attitude that the others could not increase their prices?

A. Yes; they could not do it.

Q. There was no agreement about it, but the Steel Corporation simply refused to increase prices, did they not?

A. Yes.

Q. The others were compelled——

A. (Interposing.) to adhere to them.

Q. (Continuing.) to keep theirs down because the Steel Corporation would not increase their price; is not that about all there was to it?

A. Yes, that is about all there was to it.

Q. And there was no understanding further than that, was there?

A. There was this understanding: A dozen men, or half a dozen men, would get around the table and talk and say, "Well, we will maintain $28," or something of that kind. I would say, "That will be satisfactory to us."

Q. But the price of $28 was not satisfactory to the independents, was it?

A. Not always.

Q. I am speaking of the time after the price was $28. As to that, you have said there never was a discussion with regard to the reduction of prices after the price became $28.

A. I do not think there was any sentiment for reduction of price below the $28 basis.

Q. After that it was a question of increasing the price?

A. Yes.

Q. And then the Steel Corporation said that they would not do it?

A. They indicated they were disposed to sell for $28, and that settled it.

Q. That is all there was to it?

A. Yes.

REDIRECT EXAMINATION (Continued).

By Mr. Dickinson:

Q. You say that the others could not do anything unless the Steel Corporation did it?

Mr. Lindabury: He did not say that. You are not quoting him correctly.

Mr. Dickinson: Of course, I am referring to the question of prices. I am asking him about the question that we are discussing. I will make it more specific, however.

By Mr. Dickinson:

Q. I understood you to say that the other makers could not increase the price of steel rails above $28 without the Steel Corporation agreed to it?

A. Not that the Steel Corporation agreed to it, not that.

Q. Well, unless they put up their prices likewise?

A. You can readily understand. For instance, take the Illinois——

Q. I do not know what I can understand, but I wish you would just answer that question.

MR. LINDABURY: He can answer in his own way. The witness ought to be allowed to answer it.

MR. DICKINSON: Go ahead and answer the question.

(The question was repeated by the stenographer as above recorded.)

A. I want to explain to you, if you please, why it was a physical impossibility for Cambria to get more than the United States Steel Company's price. For instance, they are located on the lines of the Pennsylvania Railroad; they are located on the lines of quite a good many other roads, at Pittsburg and Chicago and other points. If they would sell the Pennsylvania Railroad Company rails at $28 at Chicago and $28 at Pittsburg, we could not get any more than $28. Mr. Cassatt, in his lifetime, simply would say to us, "You can have your proportion of our order, but at the same price as the other mills will make it; and we will not give you any more." That is what I mean to say; that if the United States Steel Corporation were satisfied with $28 and would sell any of our customers rails at $28, then we could not get any more than $28 for the rails we sold.

By MR. DICKINSON:

Q. Did that apply to the other people who were making rails, besides yourself?

A. Just the same way.

Q. Just the same?

A. Just the same. You even take the Lackawanna Steel Company, when they were at Scranton, and afterwards, when they were at Buffalo. Mr. Roberts in his day would not pay Lackawanna any more than he paid Cambria or Carnegie. He would give them an order for the rails at the same price. He would say, "If you want an order for ten thousand tons of rails at my price, you can take it; if you do not want it, I will give it to this other company."

Q. You say the situation applies to all the competitors of the Steel Corporation?

A. To practically all, yes.

Q. And none of them could get a higher price than the Steel Corporation would ask?

A. Not very well. For instance, there is a concern that is producing substantially one-half the rails of the country, and they can fix the price.

Q. And control the situation, can they?

A. They can fix the price.

Q. Can they control the situation as to price?

A. As to price, I think so, sir. I do not see how we can get more than they are willing to sell at.

Q. You speak of the stability of price that has been maintained, and prices not being raised. I will ask you whether or not that stability was the result of an understanding among the makers of rails that $28 would be maintained as the minimum price.

MR. LINDABURY: He has answered that several times, and I object.

(The question was repeated by the stenographer as above recorded.)

MR. LINDABURY: I object because it is leading, also. The witness has said that there was no such understanding, and it is a cross-examination on your examination. I object for those reasons.

MR. DICKINSON: I do not understand the witness' testimony the way you understand it, then. I will ask him to answer the question.

(The question was repeated by the stenographer as follows:)

"Q. You speak of the stability of price that has been maintained, and prices not being raised. I will ask you whether or not that stability was the result of an understanding among the makers of rails that $28 would be maintained as the minimum price."

A. I would not want to answer that that there was an agreement. There was no actual agreement; but as I said to you, we met together frequently, sometimes once a month or sometimes once in two or three months, or perhaps oftener,

and when anything came up, and that matter of price of course came up.

By Mr. Dickinson:

Q. State whether or not that was the price throughout that time.

A. Yes. $28 was the price for rails for quite a good many years.

Q. Was there an understanding among you that that would be the price?

A. In a general way, yes.

Mr. Lindabury: I object to that as leading, and as being cross-examination upon a different statement made by the witness.

A. (Continuing.) As I tell you, we met together and talked these things over.

By Mr. Dickinson:

Q. Do you know whether or not after the formation of the Steel Corporation the minimum price of rails was as low as $26, at any time; do you know anything at all about that?

A. I am under the impression it was, that we were below $28 at one time. I do not remember exactly how much below that.

Q. Explain how the price got from that lower figure up to $28.

Mr. Lindabury: I object, because the witness says he does not know it, he simply has an impression that it was so.

By Mr. Dickinson:

Q. I will put it this way, then. If the price at any time after the formation of the Steel Corporation was lower than $28, explain, if you know, how it came about that the minimum price after that was $28.

Mr. Lindabury: I object, because the witness said he did not know it as a fact, and the question calls for mere speculation.

Mr. Dickinson: The witness has not answered whether he knows or not.

Mr. Lindabury: Yes, I think he has.

By Mr. Dickinson:

Q. Do you understand the question?

A. I have some recollection that during that period the prices were below $28, and that price appeared to be an inadequate one. As I told you, in our general meetings, we discussed the matter, and I may have said to Cambria "I think we ought to sell our rails at $28," and some others may have said "We think we ought to get that price too"; and that would be pretty near the extent of it. It would be generally agreed on that that was a fair price—not agreed on, but generally understood that it was a fair price.

Q. State whether or not after that that was the minimum price at which you sold?

A. That was probably the price at which we would sell.

Q. State whether or not as a matter of fact that did become the price at which you sold.

A. When the price was raised from $26 to $28, $28 became established. I could not tell you how it became established, but it would be done in some such way.

(Witness excused.)

FREDERICK STRAUSS,

called as a witness in behalf of the United States, being first duly sworn, testified as follows:

DIRECT EXAMINATION.

By Mr. Dickinson:

Q. Where is your home?

A. New York City; Hotel Gotham.

Q. What is your age?

A. 46 years.

Q. In what business are you engaged and how long have you been in the business?

A. The banking business. I have been engaged in it for 25 years.

Q. With what firm or corporation are you associated?

A. J. & W. Seligman & Company.

Q. Are you a member of the firm?

A. Yes.

Q. Have you been with the firm for a number of years?

A. For 25 years, in one capacity or another.

Q. State, if you know, who were the persons who became parties to, as subscribers or otherwise, a syndicate agreement of the 5th of January, 1899, between J. and W. Seligman & Company and others with respect to the American Steel & Wire Company of New Jersey.

A. I have a list of the subscribers. Do you want me to read them? There are very many of them, perhaps over a hundred.

Q. I do not know that it will be necessary to read them. You have the list, have you?

A. I have.

Q. Will you please let it be identified.

A. This is the list (producing paper). I ought to say that this list contains the amount, as well as the names; so if the amounts are not put in, I can cut them off.

MR. DICKINSON: I will have the paper put in as it appears. I ask to have it marked, and offer it as an exhibit.

(The paper so identified was offered in evidence, marked "Government Exhibit No. 135, June 21, 1912.")

By MR. DICKINSON:

Q. State what persons you conferred with from time to time with respect to the proposed syndicate agreement, and also whom you conferred with in regard to the acquisition of the several properties or the control of the corporations therein mentioned, which were to go into the American Steel & Wire Company of New Jersey.

A. Our first conferences were with Baldwin Gurney & Company of Chicago, who brought the business to us.

Q. Were they counsel?

A. No; that was a firm of stock brokers who were the Chicago correspondents of the New York firm of Wassermann Brothers, and those two brokerage firms brought the business

to us and brought us in touch with Mr. John W. Gates, Mr. Lambert—

Q. Mr. John Lambert?

A. Mr. John Lambert, yes; William Edenborn; Colonel Isaac L. Ellwood.

Q. Suppose I suggest certain names, and you can answer in regard to them.

A. Very well.

Q. State whether or not you were in conference with Mr. E. H. Gary?

A. No, sir.

Q. William E. Reis?

A. No. I might say this: While I say no in regard to Mr. Gary and Mr. Reis it is possible that we met them casually and incidentally had some little talk, but there were no negotiations or anything of that sort with them, and I am rather inclined to think these people as to whom I shall answer no were people we met after the formation of the company.

Q. How long after the formation of the company did you meet Mr. Gary and talk to him about it?

A. I do not know that any of us met him at all. I am speaking now, of course, after the lapse of ten or twelve years, and I can only say that Mr. Gary and Mr. Reis did not figure in the matter in any prominence or any importance, if they figured at all, and I doubt if they figured at all.

Q. How about A. S. Chisholm?

A. Yes, sir.

Q. And F. H. Chisholm?

A. Yes, sir.

Q. D. R. Wolfe?

A. I do not know him.

Q. G. H. Tenbroeck?

A. If I met him it must have been casually.

Q. A. M. Crane?

A. I think not.

Q. Mr. E. J. Buffington?

A. I think not.

Q. B. W. Moen?

A. Yes; we met Mr. Moen.

MR. LINDABURY: That is the Mr. Moen of Washburn & Moen?

MR. DICKINSON: Yes.

By MR. DICKINSON:

Q. Mr. Strauss, state what representations, if any, were made to you as to the percentage which the companies so combined would make of the entire product made by them and other similar concerns in the United States?

MR. LINDABURY: Objected to as irrelevant, and besides, because no person is named, and because it is hearsay.

By MR. DICKINSON:

Q. Answer the question, please.

A. I have no recollection whatsoever of any such representation having been made, and I have taken some little pains to look over our papers, as you asked me in your letter to fortify my memory on the subject. I have found nothing among my papers which gives me any information which will enable me to answer that question.

MR. LINDABURY: Objection withdrawn.

By MR. DICKINSON:

Q. State what amount in preferred or common stock, or both, went to the promoters or underwriters for bringing about the combination of the companies and concerns that went into the American Steel & Wire Company of New Jersey?

MR. LINDABURY: I do not see how the witness could know that of his own knowledge.

MR. DICKINSON: I do not know whether he knows it or not. I am asking him.

A. I shall have to answer that somewhat in detail.

Q. Very well; answer in your own way.

A. The syndicate, the names of the subscribers to which you will find on that list, received for $28,000,000 of cash furnished by them $28,000,000 of the preferred stock of the American Steel & Wire Company of New Jersey, and $16,800,000 in common stock, which was on the basis of one share of preferred stock and six-tenths of a

share of common stock for each $100 furnished. That is what the syndicate got. To the American Steel & Wire Company of Illinois, which was a corporation at that time existing, there was given $12,000,000 of preferred stock of the American Steel & Wire Company of New Jersey, and $7,200,000 of common stock of the American Steel & Wire Company of New Jersey, each preferred shareholder receiving one share of the preferred stock of the New Jersey Company and six-tenths of a share of common stock of the New Jersey Company for every share of preferred stock that he held in the Illinois corporation. To the common stockholders of the American Steel & Wire Company of Illinois there was given $14,400,000 of the common stock of the New Jersey Company in the proportion of 1.2 shares of the stock of the New Jersey corporation for each share of common stock of the Illinois Company.

That exhausted the entire issue of preferred stock, namely $40,000,000, and $38,400,000 of the common stock of the New Jersey Company of which $50,000,000 was issued. That left $11,600,000 of common stock distributed to the promoters and to the bankers, for services in connection with the formation and flotation of the company and the placing of the securities.

Q. Now, will you state who were the participants in that $11,600,000?

A. The remaining $11,600,000 were divided as follows: $400,000 was given to Wassermann Brothers of New York (common stock) for their services; $7,400,000 to Baldwin, Gurney & Company, of Chicago, and $3,800,000 to J. & W. Seligman & Company, the bankers, in the matter.

Q. Did you know, Mr. Strauss, how those respective amounts were distributed by those parties to whom they were given?

A. I only know what became of the stock that was given to us and that was our compensation.

Q. That went to your firm?

A. That went to our firm. As to the rest, I do not know what they did with their stock, or whether they got it for themselves or other people interested with them.

Q. Mr. Strauss, state whether or not the firm of J. & W. Seligman & Company at any time had any connection with the

plan for the consolidation of certain bridge manufacturers of the United States into one company or combination, and if so at what period that was?

A. The firm of J. & W. Seligman & Company did at one time interest itself in the formation of such a company. It was, I think, very early in 1900; 1900 or 1901; but I have no recollection, just now, as to just what the exact date was. Perhaps if you have the dates there it will refresh my recollection.

Q. I will just ask whether or not that was prior to the actual formation of the American Bridge Company of New Jersey?

MR. LINDABURY: Assuming he heard of the date.

THE WITNESS: Whether our efforts——

By MR. DICKINSON:

Q. (Interposing.) Antedated the actual formation of the American Bridge Company?

MR. LINDABURY: Which I assume you heard of at the time.

THE WITNESS: Oh, yes.

By MR. DICKINSON:

Q. Please state with what parties you conferred with respect to that proposed organization.

MR. SEVERANCE: They were not the bankers of that company.

MR. LINDABURY: That is objected to as irrelevant and immaterial.

MR. DICKINSON: All right. Let the witness answer. This was a part of the history. It was a step.

MR. LINDABURY: It was a step, however, that was in the air, and never touched the earth.

(By request, the stenographer read the pending question, as follows:)

"Q. Please state with what parties you conferred with respect to that proposed organization."

THE WITNESS: The business was brought to my firm by Mr. I. Gifford Ladd, and from time to time he brought in a

number of gentlemen who were officers or stockholders in the various companies that he wished to combine. As the business never went through, my recollection as to just who they were is not very good. I remember some of them.

By Mr. Dickinson:

Q. State those that you remember.

A. I remember Charles McDonald, and a member of the firm of Post & McCord; it was either Mr. McCord or Mr. Post.

You have, in your letter wherein you asked me for information, given me a list of names. Do you want me to read those?

Q. No. Just tell those that you remember were there. You need not read the others.

A. We had some talk with Mr. C. M. Schwab; with Mr. Frederick W. Voorhees, who was a promoter with Mr. Ladd; Mr. Paul E. De Fere, who was a member of the law firm of Seward, Guthrie and Steele, who was counsel to the promoters.

I think there was some talk with Mr. Percival Roberts; but whether that was at the time of the attempted formation or after it had fallen through I do not now recall. As to the other names appearing on that list I cannot state positively that I saw any of them; although it is quite likely that the more important concerns were conferred with, through their officers, and some of those names appear here. I cannot state positively.

Q. You have mentioned all the names you can recall, and you have stated the facts, so far as you remember them?

A. Yes.

Q. State what was the substance and character of the plan that was proposed by Mr. Ladd and these others that you conferred with about it?

Mr. Lindabury: I object to that as irrelevant, incompetent and immaterial. The witness has not stated that these others proposed a plan. So far he has said, as I understand it, that the proposal came from Mr. Ladd.

By Mr. Dickinson:

Q. I understand, Mr. Strauss, that Mr. Ladd brought the matter to you after it was brought to your attention through certain correspondence?

A. No, sir. Mr. Ladd came in—I do not remember how he

came to be introduced to us—but he announced his plan, of combining these bridge companies, and asked us whether we would raise money for it. We said we would be glad to look into it, which we did. The business seemed to us good, but we wanted to find out more about it, and he brought in, from time to time, representatives of these companies, in order to explain the nature of the business to us. There was no correspondence. It was all done verbally.

Q. They came in to discuss the plan proposed to you by Mr. Ladd?

A. Yes.

Q. What was that plan?

MR. LINDABURY: Objected to as irrelevant, incompetent and immaterial.

THE WITNESS: The plan was to combine certain companies into the American Bridge Company and to issue preferred and common stock; to acquire the properties, and to raise the working capital. That, in a general way, was the plan.

By MR. DICKINSON:

Q. What companies were proposed to be combined?

A. Twenty-nine companies.

Q. Can you give a list of them?

A. I have a list of them here.

Q. Will you just let that be marked as an exhibit? We offer it in evidence.

MR. LINDABURY: We object——

MR. DICKINSON: I will go over it in detail, if you wish.

MR. LINDABURY: We object, but not because the list is not read by him; we accept it with the same effect as if he had given the list from memory.

MR. DICKINSON: All right.

MR. LINDABURY: We object to the names as incompetent and irrelevant.

(The paper just referred to was thereupon marked "Government Exhibit No. 136, June 21, 1912.")

By MR. DICKINSON:

Q. State whether or not this plan was carried out by you?

A. No; it was not.

Q. Did or did not your firm cease to have connection with it after a certain time?

A. Yes. The whole plan, so far as we were concerned, was abandoned.

MR. DICKINSON: That is all.

MR. LINDABURY: No questions.

(The witness was thereupon excused.)

MR. DICKINSON: We will now adjourn the taking of testimony until we agree later upon a date for its resumption.

MR. COLTON: Until we agree upon a date and place.

MR. DICKINSON: Yes; we will have to fix the place.

MR. LINDABURY: Can we not adjourn to some definite time, subject to modification, if necessary?

MR. DICKINSON: I think we had better not do that; but the understanding is that it will be approximately the middle of September.

MR. LINDABURY: There will be no desire to sit earlier than about that date?

MR. DICKINSON: Not unless you gentlemen should be agreeable to it.

(The further hearing of this cause was thereupon adjourned subject to notice.)

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1917 1919

No. 165 6

THE UNITED STATES OF AMERICA, APPELLANT,

vs.

UNITED STATES STEEL CORPORATION ET AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF NEW JERSEY.

VOLUME 5.

PLAINTIFF'S TESTIMONY.

FILED MAY 12, 1916.

(25292)

VOLUME V.

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TWENTY-SECOND DAY.

Room 309 Federal Building,
Pittsburgh, Pennsylvania,

October 1, 1912.

The hearing was resumed at 10:30 o'clock a. m. before SPECIAL EXAMINER HENRY P. BROWN.

Present on behalf of the United States, MR. DICKINSON, MR. COLTON and MR. CORNEAU.

Present on behalf of the defendants, MR. SEVERANCE, MR. BOLLING and MR. REED.

WILLIAM H. GRIFFITHS,

a witness called by and on behalf of the United States, having been first duly sworn, testified as follows:

DIRECT EXAMINATION,

By MR. DICKINSON:

Q. Where do you live, Mr. Griffiths?

A. Washington, Pennsylvania.

Q. What is your age?

A. Sixty.

Q. In what business are you engaged?

A. In the manufacture of terne plate and sheet iron.

Q. In connection with what company?

A. In connection with the Griffiths Charcoal Iron Mills.

Q. In what capacity are you connected with them?

A. As president.

Q. State whether or not you were ever a stockholder or officer or both of the Washington Steel & Tin Plate Company?

A. I was a stockholder and president of said company.

Q. When did that company start in business, and what was its business?

A. They commenced operations the latter part of July, 1896.

Q. What did they manufacture?

A. They manufactured tin and terne plate, black plates for tinning.

Q. State whether or not they dipped tin at that time?

A. They finished the material, yes.

Q. What connection did you have with that company, either as a stockholder or officer or both?

A. I was regarded as general manager; and I was president of the corporation.

Q. Were you a stockholder in it?

A. I was a stockholder, yes sir.

Q. State whether or not you were interested to a substantial extent as a stockholder in it?

A. I presume so; my interest being a fraction over one fourth.

Q. Was or was not the property of that company sold to the American Tin Plate Company or to those who were connected with the organization of that company?

A. It was sold to them, yes.

Q. At what time was that?

A. In 1898. The transfer of the property was made in the early part of December, between the 1st and the 10th day of December.

Q. Was your company at that time doing a profitable or an unprofitable business?

A. It was doing a profitable business.

Q. Did you seek and find the purchasers, or did they seek you?

A. They sought us.

Q. State, as a stockholder, what your personal disposition was at the time as to making a sale; that is to say, whether you favored it or did not favor it?

A. There was an indisposition on my part to dispose of my interest in the concern.

Q. Who first approached you in the negotiations for the sale of that property?

A. Mr. Wheeler, of Chicago.

Q. With what other person or persons did you have negotiations leading up to it?

A. Directly after the visit of Mr. Wheeler I came in contact with Judge Moore.

Q. Where did Mr. Wheeler first see you about it?

A. He visited us at our own plant, in our own offices.

Q. Had you solicited him or anyone else to visit you?

A. No, sir.

Q. Did you have one or more interviews with Judge Moore or his representative, Mr. Wheeler, before the sale was consummated?

A. Well, before the sale was consummated the probability is that individually I had three or four conversations with Judge Moore.

Q. At what price was your property sold under that agreement?

A. $40,000 per mill.

Q. How many mills did you have?

A. Four mills.

Q. When you speak of mills, do you or not mean the plant and realty upon which they were located?

A. Quite correct; yes, sir.

Q. Did that include the stock on hand?

A. No, sir; it did not.

Q. Was that sold?

A. That was sold, yes, sir.

Q. As a separate transaction?

A. As a separate transaction.

Q. State whether or not the $40,000 per mill that you got for the property under that transaction was above or below the cost to the company of those mills.

A. $40,000 was above the cost of our mills.

Q. About what percentage above the cost?

A. Including the realty?

Q. Yes, sir.

A. Fifteen per cent, approximately.

Q. When were those mills built?

A. In 1896. Work on the installation of the mills was commenced in March. They were put into service the latter part of July, and consisted of two mills, in the first place.

Q. State what you know, if you do know, in regard to the

prices paid about that time for other tin mills that were taken over by Judge Moore and his associates.

MR. SEVERANCE: This is a question as to whether he knows. The witness, of course, will understand that he is only to testify as to what he knows of his own knowledge, and not as to what somebody else may have told him about it.

THE WITNESS: I have no knowledge that that was the prevailing price.

By MR. DICKINSON:

Q. Did you have any discussion either with Mr. Wheeler or Mr. Moore as to the prices they were paying for other property?

A. None whatever, no, sir.

Q. Did you have any information on that subject what ever?

A. None at all.

Q. Did you have information from others who sold to them?

A. I cannot speak positively, at the present time, because of the very large space of time that has elapsed; but the general understanding was that about $40,000 per mill——

MR. SEVERANCE: I object to his testifying as to any general understanding——

MR. DICKINSON: Let the witness finish his answer, and then you may enter your objection.

THE WITNESS: (Resuming). The general understanding was that $40,000 per mill was the ruling price.

By MR. DICKINSON:

Q. You had several interviews, you say, before you closed the transaction?

A. Several interviews; yes, sir.

Q. Did you or not make any efforts to know whether or not you were making a sale substantially on the basis of payments that were being made to others?

A. We never questioned it for a moment; no, sir.

Q. You never questioned it?

A. No, sir.

Q. Did you or not make any statement to them of your company and what it was doing?

A. The question was never asked. Consequently we did not.

Q. They bought the property without any investigation of your operations, so far as you know?

A. That is quite correct; yes, sir.

Q. At any rate, your company gave them no such information, as I understand it?

A. Correct.

Q. Did or did not Judge Moore, in these negotiations with you leading up to the sale of your property, state anything as to the prices he was paying for mills?

A. He did not, no, sir. The proposition was made by Mr. Wheeler.

Q. Did or did not Mr. Wheeler make any statement about the prices?

A. No, sir; none whatever.

Q. The price agreed upon, you say, was $160,000?

A. Yes, sir.

Q. Was that $160,000 a cash price or a stock price?

A. It was mentioned as a cash price in the first place.

Q. Was there or not any option under which, instead of cash, stock might be taken in the new tin plate company?

A. Yes, sir; an option was given.

Q. Mr. Griffiths, state whether or not you understood at the time that these parties were acquiring other tin plate mills.

A. I fully understood the matter; yes, sir.

Q. Did they discuss that with you, as to acquiring other mill property?

A. Oh, yes; it was positively understood.

Q. Did they say anything about forming a new company and combining these properties?

MR. SEVERANCE: What do you mean by "they"? Will you not be a little more specific?

By MR. DICKINSON:

Q. I mean Mr. Moore or Mr. Wheeler.

A. That was our understanding.

Q. Did you get that understanding from your conversation with them?

A. From my conversation with Mr. Wheeler and Judge Moore.

Q. You say while the cash price was $160,000 there was an option given as to taking payment in stock. On what basis was that?

MR. SEVERANCE: May I ask whether that was a written option, Mr. Griffiths?

THE WITNESS: Yes, sir.

MR. SEVERANCE: I object to the witness stating the contents, unless the written option is produced.

By MR. DICKINSON:

Q. Have you the written option?

A. No, sir; I have not.

Q. To whom was the option given?

A. It was given to Judge Moore and his co-partners in the formation.

Q. Did you ever have the option yourself or a copy of it, after you delivered it to him?

A. No, sir; I did not.

Q. You have no copy now?

A. No copy now.

Q. Do you know of the existence of any other than the one delivered to Judge Moore and associates?

A. I do not; no, sir.

MR. DICKINSON: We have given notice to produce those options.

MR. SEVERANCE: All right.

Q. How was the transaction closed in the sale of your property? Was it all for cash or for stock, and on what basis?

A. On our particular company?

Q. Yes.

A. Closed for stock.

Q. And on what basis, for the $160,000 in cash?

A. For the $160,000 in cash we got $160,000 in preferred stock and $160,000 in common stock.

Q. State whether or not during these negotiations there was exhibited to you a printed agreement between the proposed organizers of the Tin Plate Company, showing what the promoters were to receive of common stock?

A. No, sir.

Q. Did you ever see such an agreement?

A. I did not; no, sir.

Q. Was any such paper read to you?

A. None whatever.

Q. Was any statement made?

A. Yes, sir; the matter was brought up between Judge Moore and myself at the Lincoln Hotel.

Q. What was this statement, if any was made?

MR. SEVERANCE: I object to that as incompetent, immaterial and irrelevant, and not binding on the defendant.

MR. DICKINSON: You will want to enter an objection to this next question, I presume, also.

MR. REED: Are you now undertaking to prove the contents of that paper because it is not produced?

MR. DICKINSON: No, sir; I do not know that there was any paper. He says that there was. I am not on the paper now, but I am asking whether or not there was any statement made to him by Judge Moore as to what the promoters under this plan were to receive of the common stock for promotion.

MR. REED: You mentioned a written agreement.

MR. DICKINSON: I know; but I have gotten away from that, this is a different thing altogether.

By MR. DICKINSON:

Q. State, Mr. Griffiths, whether or not Judge Moore made any statement to you, and if so, what, in regard to the promoters receiving common stock of the corporation for their services in connection with the sale of which you speak.

MR. SEVERANCE: I note the same objection to that.

A. At the time of the meeting I speak of there was a

paper presented, presented for the purpose of reading at the moment.

By MR. DICKINSON:

Q. What?

A. Of reading just at the moment. It was a general paper, not given to us, only for the purpose of looking over it. That was the morning we decided whether we were going to take cash or stock. This proposition that you speak of was brought to my attention as nominated by the paper I speak of.

Q. Well, what was that?

A. It stated—

MR. REED: Now you are getting back to this written agreement.

MR. DICKINSON: No, that is another, I think.

MR. REED: This is some written agreement. We think the paper ought to be produced, as the best evidence of its contents.

MR. DICKINSON: We are going to try to get you to produce it, later on.

MR. SEVERANCE: You asked Mr. Griffiths for any statement made by Judge Moore.

MR. DICKINSON: To him, yes.

MR. SEVERANCE: Now, his answer is not responsive. He is answering as to the contents of some paper that was shown him.

THE WITNESS: We looked at the paper, and the paper was handed back to Judge Moore.

MR. SEVERANCE: But Judge Moore said nothing?

THE WITNESS: Said nothing; no, sir.

MR. DICKINSON: This is subject to your exception, of course.

MR. SEVERANCE: I am entering an objection to the witness stating the contents of the paper, on the ground that it is not the best evidence.

MR. DICKINSON: We have called on you for the production of those papers. Of course we cannot do everything in a minute.

MR. REED: If the paper is in the possession of some other defendant in this case, I take it that secondary evidence of its contents is not admissible against us. That person should be summoned as a witness.

MR. DICKINSON: I understand you except.

MR. REED: Yes; and I am stating the reasons for the exception.

MR. DICKINSON: Yes; I understand that. I do not object to your excepting.

By MR. DICKINSON:

Q. What did that paper show, which was shown to you by Judge Moore, in regard to the compensation in common stock to be received by the promoters of that enterprise?

A. The paper plainly nominated that Judge Moore was to receive ten millions of dollars in common stock for services rendered.

Q. State whether or not, after selling this property, you constructed another tin plate plant.

A. I did; yes, sir.

Q. Where was this constructed?

A. At Washington, Pennsylvania.

Q. If you applied to any makers of machinery to install that plant, state to whom you applied.

A. The only one I directly applied to was Lloyd, Booth & Company, of Youngstown, Ohio.

Q. In what business were they engaged?

A. They were founders and machinists. They served the requirements of tin plate mills and sheet mills.

Q. Did you or not get the machinery that you wanted for this tin plate mill from Lloyd, Booth & Company?

A. I did not—you mean for these mills?

Q. I mean for the ones you built after you sold.

A. No, I did not.

MR. SEVERANCE: Will you let the witness state when it was he built that mill?

By MR. DICKINSON:

Q. When was it?

A. In 1899. We commenced the work of building in the

latter part of April, 1899.

Q. Did Lloyd, Booth & Company or not decline?

A. They declined to build me the tin plate mills that I asked for.

Q. What explanation did they give for such declination?

MR. SEVERANCE: I object to that as pure hearsay.

By MR. DICKINSON:

Q. Answer the question.

A. Did the gentleman object?

MR. DICKINSON: The objection goes on the record, and that is for future consideration.

MR. SEVERANCE: Yes, unfortunately Judge Brown has no authority to rule on objections: otherwise, you would not be permitted to answer that.

MR. DICKINSON: I do not concede that.

MR. SEVERANCE: I am just explaining that to the witness.

MR. DICKINSON: Yes, and I can explain that we expect to show that there was a conspiracy between that company and the other companies, entered into with the American Tin Plate Company, by which they were to decline to do the very things which I am showing by this witness that they did do, and the declaration of one of the co-conspirators is perfectly competent in this case.

MR. REED: Ought you not show the conspiracy first?

MR. DICKINSON: We cannot show everything at once. We will show it before we get through.

THE WITNESS: shall I answer?

By MR. DICKINSON:

Q. Yes, answer the question.

A. They indicated the fact that they were not at liberty to build me the mills that I desired, by reason of being under obligations to the American Tin Plate Company; that the obligations were of such a character that they forbade them building the mills.

Q. Did he or not mention any other concerns that were in this agreement with them and the American Tin Plate Company?

MR. SEVERANCE: I object to that, as the witness has not stated that there was any agreement.

By MR. DICKINSON:

Q. Answer the question.

A. Directly, I do not think that he did; but he stated to me that it would be almost impossible on my part to secure the mills that I was seeking, from any of the founders or machinists that were engaged in the business.

Q. Did he state why?

MR. SEVERANCE: I object to that.

A. By reason of an agreement that existed between them and the American Tin Plate Company.

By MR. DICKINSON:

Q. Who were the principal makers of such machinery, of that kind, in Pittsburg, or in the Pittsburg district?

A. Garrison Company.

Q. Was that the Garrison Foundry Company?

A. The Garrison Foundry Company; Robinson & Rea; the Lewis Foundry & Machine Company; Totten & Hogg; McIntosh & Hemphill; Seaman-Sleeth Company, manufacturers of rolls pertaining to the machinery; the Lincoln Foundry & Machine Company.

Q. Was that a foundry and machine company, or foundry and roll company?

A. I cannot say, exactly. The name was "Lincoln."

Q. It was one or the other?

A. They were manufacturers of rolls at the time, exclusively; tin plate rolls. The Mesta Foundry & Machine Company; the Lloyd & Booth Company, of Youngstown; The Apollo Roll & Foundry Company, I think manufactured rolls at that time. That is all, at the moment, that I can think of. I think that comprises most all of them.

Q. If any question arose at that time between you and Mr. Booth in regard to your erecting a sheet mill instead of a tin plate mill, state what was said in reference to that matter by him?

MR. SEVERANCE: I object to that as incompetent.

A. When I contemplated the erection of mills, I went to Lloyd, Booth & Company, by reason of the fact that they had built me the mills that were sold to the American Tin Plate Company, and, as I stated previously, Mr. Charles Booth, Jr., a member of the firm, stated that they were not at liberty to build me mills.

Q. The tin plate mills?

A. The tin plate mills, by reason of their being under obligations to the American Tin Plate Company. He suggested at this particular time the propriety on my part, desiring to go into the business, to place an order with them for sheet mills, which are very similar in construction and kind to tin plate mills, although used commonly for a different purpose. I asked the question in regard to conditions, conditions under which he would build me the mills. He very frankly stated that he would build them providing I was a party to a lease; at the signing of the lease, the lease covering the sheet mills that I would order; that there would be certain agreements in connection with the same that I would have to sign, the agreements principally being that when those mills were installed and put in service, I would under no manner of consideration whatever be allowed to roll any sheet steel that I knew entered into tin plate; that I would pay one-third for the mills when those mills were on board the cars, one-third when they were assembled, and the other one-third extending over a period of two years, covering the lease that I would be obligated to sign.

Q. Did you have these mills built?

A. No, sir.

Q. You did build a tin mill, I believe?

A. I built a tin mill, but it was my intention at the time to manufacture tin plate.

Q. With what company did you place your order?

A. With the Avonmore Foundry & Machine Company, for two mills.

Q. What is the name of that company?

A. The Avonmore, or the West Penn.

Q. Did they build the two mills?

A. They built the two mills.

Q. State whether or not you undertook to place with them an additional order, and if so, for how many mills.

A. For two additional mills.

Q. Did they or not furnish you those mills?

A. They were refused me.

Q. What explanation did they give you?

Mr. Severance: I make the same objection to that, as incompetent.

A. The explanation was to the effect that Mr. Banfield had become a stockholder in the company, a stockholder to the extent of controlling the practice and the service of the company, and that as he was an American Tin Plate official, it would not be in harmony with the fitness of things that they should supply me with the two additional mills.

Q. Where did you finally get your machinery for this new rolling mill?

A. From the Canton Roll & Foundry Company.

Q. State what knowledge you had of the character of plants that were taken over by the American Tin Plate Company at its organization.

A. The physical character of the plants?

Q. The properties; and the character of the mills, and where they were located and their value, and what, based upon your knowledge as an operator and builder of such properties, the value was at the time they were taken over—of all the plants taken over by the American Tin Plate Company.

Mr. Severance: May I ask him one preliminary question? I may want to make an objection.

Mr. Dickinson: Yes.

By Mr. Severance:

Q. Did you visit all these plants and examine them, for the purpose of appraising them or otherwise?

A. No, sir.

Q. You did not visit them?

A. No, sir; my knowledge was obtained only from hearsay. Of course a number of them I visited.

MR. SEVERANCE: I will object to the witness answering the question, inasmuch as he is not an expert.

MR. DICKINSON: You do not know what his answer is going to be.

MR. SEVERANCE: He has already said that he knew about the plants only from hearsay, and I object to his answering the question.

(The question was read by the stenographer as follows:)

"Q. State what knowledge you had of the character of plants that were taken over by the American Tin Plate Company at its organization, the physical character of the plants, the properties and the character of the mills and where they were located, and their value, and what, based upon your knowledge as an operator and builder of such properties, the value was at the time they were taken over—of all the plants taken over by the American Tin Plate Company."

By MR. DICKINSON:

Q. Did you have a knowledge——

MR. SEVERANCE: Do I understand that question is withdrawn?

MR. DICKINSON: I am asking him another question.

MR. SEVERANCE: Then the former question is withdrawn?

MR. DICKINSON: Yes, in effect, of course.

By MR. DICKINSON:

Q. Did you have a knowledge, a personal knowledge, of the approximate values of any of these plants that were taken over by the American Tin Plate Company, and if so, which ones?

MR. SEVERANCE: I object to that on the same ground, that the witness has not been shown to be qualified to answer.

MR. DICKINSON: You have your objection already, on that.

MR. SEVERANCE: I have noted my objection.

By MR. DICKINSON:

Q. Answer the question.

A. I must answer the question directly, because I had no

knowledge, outside of my own mills, as to the relative cost of a mill represented by other concerns.

Q. Did you have any knowledge of the output, as compared with yours?

A. Oh, yes.

Q. Of any of these other mills?

A. Yes, sir; by reason of the fact that that was fixed and firm.

Q. Of which of those did you have knowledge?

A. Why, all of them. Answering your question directly, by reason of the fact that we were under the domination of the Amalgamated Association of American Tin Plate Workers.

Q. What was the amount?

A. The amount of output was fixed by them. There was a limit line.

Q. What was that limit line?

A. They could go so far and no farther, so far as the output was concerned.

Q. What was the limit line?

A. In 1888——

Q. No, I am speaking of 1898.

A. Yes, in 1898; pardon me. In 1898 5,250 pounds constituted the product of a turn on one mill, consisting of eight hours.

Q. Of how many hours?

A. 5,250 pounds of finished plate. Not finished, but of 30 gauge black plate; 5,250 pounds a turn.

MR. SEVERANCE: I did not catch that.

THE WITNESS: The turn; 5,250 pounds to the turn of eight hours.

By MR. DICKINSON:

Q. Was that the capacity of which you are speaking, or the amount that could be produced—

A. No, sir; I would not pretend to any such nice distinctions, as far as this being the capacity is concerned. That was the limit of production.

Q. How was that limit fixed?

A. It was drawn and fixed by the Amalgamated Association of Tin Plate and Sheet Iron Workers.

Q. And how long had that Association been in existence?

A. I cannot speak definitely. Possibly ten years prior to that time, or even longer.

Q. At that time, 1898, what was the approximate cost of erecting a new standard, up-to-date tin mill?

A. If I indicate to you the price of the mills that I installed, will that answer your question?

Q. If you say that you made inquiry and that that was the market price.

A. The four mills cost us $92,000.

Q. You mean the entire plant?

A. The entire plant, independent of the real estate. I will answer that question by giving you definite figures.

The plant with the real estate cost us $110,840, of which $15,000 for real estate had representation.

MR. SEVERANCE: The total was $119,000?

THE WITNESS: Yes; $110,840.

By MR. DICKINSON:

Q. Which plant was that? The one you sold?

A. The one that I sold to the American Tin Plate Company.

Q. And that had four mills?

A. That had four mills; yes, sir.

Q. For that you got $320,000 in stock?

A. Quite correct.

Q. When Mr. Wheeler and Judge Moore, or either of them, visited you for the purpose of buying your mills, state what they said, if anything, as to the purpose of the formation of the American Tin Plate Company.

A. Manufacturers in general, at that particular period, were complaining in regard to the profits that the business represented.

Q. I am not asking about what manufacturers were complaining of. The question is if they stated anything to you. If so, please state that.

A. I cannot remember that they did make any statement in regard to that matter.

Q. State whether or not any statement was made in regard to the effect that such combination would have in the way of control over the business.

A. I cannot answer that question directly.

Q. State whether or not this plant, the Washington Steel & Tin Plate Company, sold to the promoters of the American Tin Plate Company, was closed down, and if so within what time after the sale.

A. About eighteen monts after the sale of the plant. During the eighteen months that I speak of it ran very irregularly.

Q. State whether or not, to your knowledge, any company manufacturing tin plate failed within two years before the formation of the American Tin Plate Company.

A. I am very confident that there were no failures.

Q. When did the Griffiths Charcoal Iron Mills, with which you are now connected, first make tin plate?

A. In December of 1902.

Q. As to the tin plate mill that you sold: State how it was situated, from the standpoint of economical manufacture, cost of assembling material, ability to get labor, etc.

A. The location was a most excellent one.

Q. What was its situation with respect to freight rates; favorable or unfavorable, as to the various markets?

A. It was favorable. We were in the Pittsburgh District and had the Pittsburgh District rates of freight.

Q. If any tin plate mills taken over by the American Tin Plate Company were closed down within two years after they were taken over, please state what they were,—the names of them.

A. There were several of them. I do not think I could indicate the names of all of them that were closed down in two years. There was the Washington Steel & Tin Plate Mills—

MR. SEVERANCE: That was your company?

THE WITNESS: Yes, sir.

MR. SEVERANCE: You are stating what you know yourself?

THE WITNESS: Just what I know myself, yes.

There was Marshall Brothers Company, of Philadelphia. There was a concern in Baltimore, the name of which I am not familiar with; mills there.

By MR. DICKINSON:

Q. Do you remember whether it was the Baltimore Tin Plate Company?

A. That was the name of the concern.

Q. I will ask you if you have any recollection about the Niles Tin Plate Company?

A. They were closed down. The mills were dismantled, but not during the period of two years after the formation of the American Tin Plate Company.

Q. Within what period, as far as you know?

A. It is simply conjectural on my part. I would presume they had existence as a manufacturing plant for four years afterward.

Q. How about the Johnstown Mills, of Johnstown, Pennsylvania?

A. I think they were closed down shortly after the absorption.

Q. How about the Star Tin Plate Company, of Pittsburgh, Pennsylvania?

A. Three or four years after the formation of the American Tin Plate Company.

Q. How about the Morewood Company, Gas City, Indiana?

A. They were closed down three or four years after.

Q. How about the mills at Joliet, Illinois?

A. I do not think they ever operated after they were absorbed by the American Tin Plate Company.

Q. State whether or not after you built your second mill you had any difficulty in getting tin bars.

A. We had very much difficulty in procuring the same.

Q. When you were running your other mill, where had you gotten your tin bars?

A. We had secured our tin bars almost exclusively from the iron and steel mills at Youngstown. We had secured a small tonnage from the Bellaire Steel Mills; and a few hundred tons, I remember, from Mingo Junction.

Q. In what concern did those mills go?

A. What was known as the National Steel Company.

Q. And after that, you say, you had difficulty?

A. After the formation of the National Steel, which was shortly after the formation of the American Tin Plate Company.

Q. Were you able, or not, to get bars from the National Steel or the Carnegie Company, after you built your second mill?

A. No, sir.

Q. If you approached any concerns that were reputed to be going into the National Steel Company, state what occurred, and what the concerns were.

MR. SEVERANCE: I object to that as involving hearsay, and as irrelevant.

BY MR. DICKINSON:

Q. Just answer the question.

A. Upon the day that I visited Lloyd Booth & Company, I visited the offices of the Ohio Iron & Steel Company, in order to discover, if possible, what the opportunities were of securing tin plate bars. I was given to understand, at that time, that they were on the eve of disposing of their plant to the National Steel Company, and were not at liberty then to consider any proposition looking forward to a supply of tin plate bars.

Q. Did you approach any other concerns that went into the National Steel Company?

A. I did not. Some of my friends, I believe, approached the Carnegie Company.

Q. Do not state what your friends said.

CROSS-EXAMINATION.

By Mr. Severance:

Q. Mr. Griffiths, what is the present capacity of your mills?

A. Of the mills that I own?

Q. Of the mills that you are now running, yes?

A. We have simply a two-mill plant. In connection with the same we have forges. Our plant, at the present time, differs materially from what is known as a tin plate mill today. We manufacture, exclusively, sheets and roofing plate, from a charcoal iron base.

Q. You do not make tin plate?

A. We do not make tin plate.

Q. Have you ever made tin plate since you sold out your plant to the American Tin Plate Company?

A. Yes, sir. We made tin plate at the mills I speak of that were installed in 1899.

Q. Going back to the time before you sold out: You say that your mill—which was called the Washington Steel & Tin Plate Company—

A. Yes, sir.

Q. (Continuing) Was started in 1896?

A. Yes, sir.

Q. As a two-mill plant?

A. As a two-mill plant.

Q. And then, in 1898, you put in two more mills?

A. No, sir; we commenced the work of installing two additional mills at the close of 1896.

Q. Oh! And when were they installed? In 1897?

A. They were in operation in the fall of 1897; well, in the summer of 1897.

Q. About a year and a half before you sold out to the American Tin Plate Company?

A. Yes, sir.

Q. Outside of the tin mills did you have any other industry in connection therewith?

A. At that time?

Q. Yes.

A. None whatever.

Q. And you purchased in the market your black plate, did you, at that time?

A. No. We manufactured our black plate.

Q. You manufactured your black plate?

A. Yes.

Q. And you coated it?

A. And we coated it, yes sir.

Q. But you bought your raw material?

A. We bought our raw material, as was customary.

Q. From whom did you buy that?

MR. DICKINSON: What do you mean by "raw material"? Do you mean bars?

THE WITNESS: Yes.

MR. SEVERANCE: I mean the steel from which he made the black plate.

MR. DICKINSON: I think that is all he meant by raw material.

MR. SEVERANCE: I will ask him, to make it specific.

BY MR. SEVERANCE:

Q. What did you understand me to mean by my question, when I asked you about raw material?

A. I understood you to mean the bars, of course.

Q. That is what I thought.

A. (Continuing) As is customary with all tin mills.

Q. That is what I thought.

MR. DICKINSON: I suppose it is the same thing. I just wanted it made clear on the record.

THE WITNESS: When we speak of raw material, generally, we have reference to the ore.

BY MR. SEVERANCE:

Q. You say that previous to selling out you had procured your bars from whom?

A. From the Ohio Iron & Steel Company.

Q. Who were the principal men in that company?

A. Henry Wicks was President, at that time.

Q. How soon after the organization of the American Tin Plate Company and the sale of your plant to that company did you set about building a new mill?

A. Between four and five months afterwards.

Q. And when did you put in the first two mills, Mr. Griffiths? During that year?

A. Yes, sir.

Q. During 1899?

A. During 1899; yes, sir. They were put in service late in December.

Q. And from whom did you buy your bars when you started out?

A. From W. P. Snyder.

Q. Where was his plant?

A. He was at Pittsburg. He had no plant. He was a large broker.

Q. He was a broker?

A. Yes.

Q. And did you continue to buy your bars from Mr. Snyder?

A. No, sir. He only had a limited amount of bars on sale. From what I understood from Mr. Snyder, it was an old contract.

Q. When you ceased to buy from Mr. Snyder, where did you buy your bars?

A. We would purchase billets and get the billets reduced into bars.

Q. From whom did you buy the billets?

A. We would buy the billets from Jones and Laughlin; we would buy them from some broker in Pittsburgh.

Q. But, from some concern or other, you were able to continue your business, were you?

A. Oh, yes, we were able to continue.

Q. And you not only continued it as a two-mill plant, but enlarged it into a four-mill plant?

A. Yes, sir; into a four mill plant; and at the same time we installed what is known as a bar mill, and installed an acid open hearth furnace for making our own billets.

Q. So that you went further back in the process, after that?

A. Yes, sir; that extends further back; closer to the raw material.

Q. Up to what time did you continue the making of tin plate and these other processes of manufacture?

A. That is, the extent of time that covered my relations with those mills?

Q. Yes. I understand that you are not doing a tin plate business now?

A. No, sir. Let me see. That was about February of 1902, when I ended my relations with the mills of which you are speaking.

Q. Then, after that, what became of those mills?

A. They were operated by a firm known as the McClure Company.

Q. How long were they operated?

A. They are still in operation. They have undergone several changes, as far as management is concerned, and as far as organization is concerned.

Q. But they are still in operation?

A. They are still in existence and still in service; yes, sir.

Q. Has it continued to be a four-mill plant?

A. No, sir; at the present time it is a six-mill plant.

Q. When were the additional two mills put in?

A. During my relation with the concern we installed five mills. There has been one additional mill installed since that time; within the last eighteen months.

Q. Then, up to 1902, you installed three additional mills, over and above the original two?

A. Three.

Q. I understood you to say two additional mills.

A. Three. My memory is not very clear on that point, but I am under the impression that we installed three.

Q. Well, it is not very important, anyhow. There are six now?

A. Yes, sir.

Q. And the plant is still in operation?

A. It is still in operation.

Q. And your business is disconnected from the tin business?

A. Oh, yes. You might say it is almost separate and dis-

tinct. While it is kindred to it, we simply use a different base for the manufacture of our finished material.

Q. On your direct examination, when you were asked about the capacity of the mills, you spoke of a limitation upon the output, and you said the mills were under the domination of the Amalgamated Association; and that 5,250 pounds constituted one turn of eight hours?

A. Yes. That would be for a given substance—thirty gauge. If it was twenty-eight gauge it was slightly increased; not materially, however.

Q. What I want to get at is this: The limitation upon the product was not through any association of the manufacturers?

A. No.

Q. But it was through an association of the employes who belonged to this Amalgamated Association?

A. Yes, sir.

Q. That is right?

A. That is quite correct.

Q. That was a labor organization,—the Amalgamated Association?

A. Yes, sir.

Q. You spoke of the fact that some time after, about eighteen months after you sold out to the American Tin Plate Company, the plant that you disposed of to that company was shut down?

A. Yes, sir.

Q. Was the machinery moved to some other place?

A. Yes, sir.

Q. To what place?

A. It was moved to Wheeling, West Virginia; that is, the major part of it.

Q. And was it installed and used there?

A. No; it was not used there. The engines I do not think were ever operated again by the American Tin Plate Company.

Q. Were the tin mills?

A. The tin mills, I presume, were; yes.

MR. DICKINSON: Do you know?

THE WITNESS: No, I cannot speak positively. The housings and things of that kind were serviceable and of like nature to what exist today, and the presumption is that they used them.

MR. DICKINSON: I object to his stating anything based on presumption in regard to the use of any of that machinery.

By MR. SEVERANCE:

Q. You spoke of the Baltimore Tin Plate Company as having been shut down?

A. It never was regarded as a successful company.

Q. Are you aware of the fact, Mr. Griffiths, that the machinery in the Baltimore plant was taken to other plants and used?

A. No sir.

Q. You do not know about that?

A. No sir.

Q. You spoke of the plant at Johnstown being closed down, Mr. Griffiths. Are you aware of the fact that the equipment and the machinery from that plant was moved to the National works at Monessen, Pennsylvania, and used there?

A. No sir; I am not aware of it.

Q. You do not know to the contrary? You do not know anything about it?

A. I do not know what disposition was made of it.

Q. You spoke of the Star Tin Plate Company at Pittsburg being shut down. Are you aware of the fact that a portion of that machinery was moved to New Philadelphia, Ohio, and Old Meadow, Scottdale?

A. No sir.

Q. You do not know about that?

A. No sir.

Q. And you do not know to the contrary?

A. No sir; I do not know to the contrary. I am profoundly ignorant as to its disposition.

Q. I suppose, then, that I may ask you the general question: You do not know, do you, Mr. Griffiths, as to what use was made of the machinery in these various plants of which you have spoken as having been dismantled or shut down?

A. I do not, no sir.

Q. And you do not know the considerations as to the comparative costs that induced the American Tin Plate Company to move machinery from one place to another?

A. No sir.

Q. You do know, do you not, that the American Tin Plate Company has not decreased its output?

A. I am cognizant of that.

Q. You know that they have a larger output now than when it was formed?

A. I am fully aware of that, yes sir.

Q. It is still a manufacturing company?

A. Yes sir.

Q. You know, do you not, Mr. Griffiths, that a large number of tin mills have been established, and have been in successful operation since the organization of the American Tin Plate Company, that are disconnected from that company?

A. Yes sir.

Q. Could you name over some of them?

A. The Port View, McKeesport—

Q. Do you know the capacity of these mills? I should be glad to have you state it, if you do. If you do not know, just say so. I mean the number of mills.

A. I believe the Port View, of McKeesport, comprises, at the present time, twenty mills. I will not be sure about that. They had, originally, ten mills, and I understand that they doubled their capacity.

MR. REED: They have twenty-two, have they not?

THE WITNESS: I cannot say positively. To the best of my knowledge and belief they have twenty mills.

By MR. SEVERANCE:

Q. Very good.

A. Then there are the Clarksburg mills; the Wierton mills—

Q. What is the capacity of the Clarksburg mills?

A. The mills that I was just naming are all under one head, and I was going to give you the reported number of mills under that one head.

Q. Very well.

A. The Clarksburg mills; the Wierton mills; and the Pope Tin Plate mills, comprising, altogether, forty-two mills.

MR. REED: What is the name of that company?

THE WITNESS: The Wierton Tin Plate Company.

MR. REED: Is it not the Phillips Sheet & Tin Plate Company?

THE WITNESS: I beg your pardon. Yes; it is the Phillips Sheet & Tin Plate Company.

By MR. SEVERANCE:

Q. Very good. Proceed.

A. Then there is the Follansbee Brothers Company mills at Follansbee, reputed to be very successful mills. In the first place it comprised six tin mills and two sheet mills. Whether they have added to their plant since that time I cannot positively state. They have added to their plant in the shape of supplying their needs in the form of tin plate bars from their own open hearth furnaces.

Then there are the Jones & Laughlin Tin Plate Mills, comprising approximately twenty mills.

Then you ask me what I presume to be the successful mills, do you not, of the independent mills that are in existence to-day?

Q. The independent mills that are doing business, yes. I do not suppose you have seen their books. What I mean is the mills that are engaged in business to-day.

A. The Washington Tin Plate Mill Company, at Washington, Pennsylvania.

Q. That is a different company from the one that went into the American Tin Plate Company, although it has almost the same name?

A. Yes. The Washington Steel & Tin Plate Mills was the appellation of the mills you refer to.

Q. How large a plant is that?

A. It consists of six tin mills.

MR. REED: The Washington?

THE WITNESS: Yes. Then there are four tin mills at Waynesburg, Pennsylvania.

By Mr. SEVERANCE:

Q. What company is that? A. It used to be known as the Waynesburg Sheet & Tin Plate mills.

Q. How many mills did they have?

A. Four tin mills.

Q. Do you know the American Rolling Mill Company of Zanesville, Ohio?

A. Yes; they are engaged in the sheet business exclusively, although recently, I think, they have been rolling material for tinning purposes.

Q. And the Brier Hill Steel Company, of Youngstown; do you know them?

A. They are not engaged in the tin plate business.

Q. Do you know the Cannonsburg Iron & Steel Company of Cannonsburg?

A. Yes; they are not engaged in the tin plate business. Allow me to state that mention of Cannonsburg brings to my memory the fact that there are the Standard Tin Plate mills at Cannonsburg, consisting of ten mills.

Q. Perhaps I had the wrong name, then?

A. No, sir; there is a company by the name you stated, but they are engaged in rolling sheets exclusively.

Q. But there is a company at Cannonsburg with ten tin mills?

A. With ten tin mills, yes, sir; known as the Standard Tin Plate Company.

Q. Do you know the DeForest Sheet & Tin Plate Company, of Niles, Ohio?

A. Yes; I know of them. They manufacture sheets exclusively.

Q. They do not make tin plate?

A. They do not make tin plate.

Q. You know the Inland Steel Company, of Indiana Harbor?

A. They manufacture sheets; not tin plates.

Q. Are you sure?

A. I feel very confident of it.

Q. Do you know the Western Sheet & Tin Plate Company, Greencastle, Indiana?

A. I think that is a new concern. They may possibly be making tin plate.

Q. Do you know the Jobe Iron & Steel Works, of Ashland, Kentucky?

A. No, sir.

Q. Do you know the Newport Rolling Mill Company, of Newport, Kentucky?

A. They are sheet mills.

Q. They are also tin mills, are they not?

A. No, sir.

Q. Do you know the Osterberg Tin Plate Company, of Waynesburg?

A. That is the one I referred to, formerly known as the Waynesburg Forge Sheet & Tin Plate Mills.

Q. You know the Union Sheet & Tin Plate Company of Marietta, Ohio?

A. Yes sir.

Q. The Wilkie Rolling Mills Company of Sharon—do they make any tin plate.

A. No sir. They have never been putting it on the market; they may have advertised it.

Q. Do you know the National Enameling and Stamping Company?

A. Oh, yes. They were in existence prior to the formation of the American Tin Plate Company.

Q. Where are they located?

A. Their mills are located principally adjacent to St. Louis.

Q. Across the river, in Illinois, are they not?

A. Yes sir.

MR. REED: They have twenty-two mills, have they not?

THE WITNESS: Twenty-two is the number, yes.

MR. REED: Do you know the Wheeling Sheet & Tin Plate Company?

THE WITNESS: They are building.

MR. REED: They have ten mills?

THE WITNESS: That is what I understand.

Then there is the Wheeling Corrugating Company, that I did not make mention of. They have four tin mills.

By Mr. Severance:

Q. How about the N. & G. Taylor Company, of Philadelphia?

A. Yes. They have leased the Cumberland Mills, I think. When I say that I think they have leased it, I think it is under lease to them. I do not know that they have bought it.

Q. They are tin mills?

A. Yes, tin mills.

Q. And you know the Alcania Company, of Avonmore?

A. Yes sir.

Q. That was in existence previous to the organization of the American Tin Plate Company?

A. It was not in operation.

Q. But it was a tin mill, and in existence at that time?

A. Yes; it was a tin mill.

Q. Do you remember Lalance & Grosjean Manufacturing Company, of Harrisburg, Pennsylvania?

A. Yes sir.

Q. That was in existence before the American Tin Plate Company was formed?

A. Yes sir. They manufactured exclusively for their own needs.

Q. They manufactured tin for their own needs?

A. Yes. They manufactured very little tin plate. They manufactured sheet iron for stamping purposes, for enameled ware.

Q. Did they have a six-mill plant?

A. They had a six-mill plant, yes.

Mr. Dickinson: Which was that?

The Witness: Lalance & Grosjean.

Mr. Reed: They had five tin mills, had they not?

Mr. Severance: Six.

Mr. Reed: Six hot mills and five tin mills.

The Witness: Yes; but I do not think they regularly engaged in tinning. The product of these mills was used by themselves for stamping; what is known as enameled ware, at the present time.

By Mr. Severance:

Q. Do you know the Ferguson Tin Plate Company of Pittsburgh?

A. They are dippers.

Q. And the Carnahan Sheet & Tin Plate Company?

A. Yes. I did not make mention of them.

Q. How many mills did they have?

A. They have six mills.

Q. Eight, is it not?

A. They may have increased it.

Q. When was that company started?

A. I can only give you the approximate date. It would be about 1902.

Q. Did I ask you about the Massilon Rolling Mills?

A. The Massilon Sheet Mill.

Q. Did I not ask you about that?

A. No sir; you did not. That is a sheet mill.

Mr. Reed: They have six tin mills, have they not?

The Witness: Not the Massilon. They have six sheet mills.

By Mr. Severance:

Q. You said, Mr. Griffiths, that so far as you know there had been no failure of any of the tin plate companies within two years previous to the organization of the American Tin Plate Company, did you not?

A. Yes sir.

Q. It is a fact, however, is it not, that some of those companies that were engaged in the tin plate business at that time were financially embarrassed?

Mr. Dickinson: Answer only as to your own knowledge, Mr. Griffiths.

The Witness: I only know of one company that was financially embarrassed.

By Mr. Severance:

Q. There is only one that came to your attention?

A. Yes, sir; that was the Humbert.

Q. But as to the extent of the credits at the banks of a

number of these companies that went into the American Tin Plate Company, you have no knowledge?

A. None whatever.

Q. And you did not inquire?

A. I did not inquire.

Q. And when you said that there had been no failures, you meant that, so far as you know, none of them had gone into bankruptcy or become publicly insolvent? That was all you meant by your answer, was it not?

A. Yes. That governed my answer; yes, sir.

REDIRECT EXAMINATION.

By Mr. Dickinson:

Q. Mr. Griffiths, you were asked about tin mills in existence and in operation, disconnected with or independent of the United States Steel Corporation or the American Sheet & Tin Plate Company; and you have mentioned a number of companies in that connection. Do you know, of your own knowledge, that all of these companies are entirely disconnected with the United States Steel Corporation, or with the men who are largely in control of that corporation?

A. Not of my own knowledge; no, sir. The question was asked me in general form, and I would say that they were operating distinctly from the United States Steel Corporation.

Q. Do you know who their stockholders are?

A. I do not know, sir.

Q. You do not know who controls them?

A. I do not; no, sir.

Q. You have no intimate knowledge of their affairs that would enable you to say that they are entirely disconnected with or independent of the United States Steel Corporation or the American Sheet & Tin Plate Company?

A. None whatever; no, sir.

Mr. Dickinson: That is all.

RECROSS EXAMINATION.

By Mr. Severance:

Q. You have never heard it intimated, Mr. Griffiths, that concerns like Jones & Laughlin were under the control of the Steel Corporation, have you?

A. No, sir.

Mr. Severance: That is all.

EDWIN R. CRAWFORD,

a witness called by and on behalf of the United States, having been first duly sworn, testified as follows:

DIRECT EXAMINATION.

By Mr. Dickinson:

Q. Where do you live?

A. In Duquesne, Allegheny County, Pennsylvania.

Q. What is your age?

A. Forty-two.

Q. In what business are you now engaged?

A. In the tin plate business.

Q. You are associated with what company?

A. The McKeesport Tin Plate Company.

Q. Where is that company situated?

A. In Port View Borough, Allegheny County.

Q. When was that company organized?

A. In 1901.

Q. Was it in 1901 or 1902?

A. It was organized in 1901.

Q. When did it begin operation?

A. In 1903.

Q. Prior to the year 1899, Mr. Crawford, state whether or not you were connected with the United States Iron & Tin Plate Manufacturing Company at Demmler, Pennsylvania.

A. Yes, sir.

Q. I omitted to ask you, I believe, what position you held with the McKeesport Tin Plate Company.

A. I am president of it.

Q. You are president of it?

A. Yes, sir.

Q. And what position did you hold in connection with the company at Demmler?

A. In 1898?

Q. Well, yes; in 1898.

A. I was secretary of it in 1898.

Q. Was that company taken over by the American Tin Plate Company?

A. Yes.

Q. Were you employed in any capacity by the American Tin Plate Company after that?

A. Yes, sir.

Q. In what capacity?

A. Traveling auditor.

Q. For the American Tin Plate Company?

A. Yes, sir.

Q. How long were you traveling auditor for that company?

A. Until December 1, 1901.

Q. What were your duties as traveling auditor?

A. Principally looking after cost records of operations at the mills, at the different mills of the company.

Q. Did that duty require you to go to all of the mills of the different companies?

A. Yes, sir; I traveled through all of the mills of the company.

Q. You did visit all of their mills?

A. Yes.

Q. You were familiar with them?

A. In a general way, I would say I was familiar with the operations of all of the plants.

Q. And the character of the plants and what they were doing?

A. Yes.

Q. And their location?

A. Yes.

Q. What was the capitalization of the United States Iron & Tin Plate Manufacturing Company?

A. $500,000.

Q. At the time it was taken over by the American Tin Plate Company, was it making or losing in its operations?

A. It was making some money at that time.

Q. How many mills was it operating at that time?

A. Five.

Q. Did it build any other mills?

A. There were six new mills in the course of construction at the time the plant was taken over, which were virtually completed. I believe they were all put in operation in January, 1899.

Q. And when were they actually taken over by the company?

A. In December, 1898.

Q. Yes; and they were practically finished, you say, at that time?

A. They were practically finished. They were put in operation in January, 1899.

Q. At what price was this property, consisting of these eleven mills, taken over, or sold to the promoters of the American Tin Plate Company?

A. $550,000.

Q. Averaging it, that would be $50,000 per mill, would it?

A. Yes.

Q. What did these mills cost, on an average?

A. I do not think I would be prepared to give definite figures on that, but I would say, from my knowledge of mills at that time, that they probably did not cost more than about $30,000 per mill.

MR. SEVERANCE: Did that include the real estate?

THE WITNESS: No, that would be exclusive of the real estate.

By MR. DICKINSON:

Q. What was the value of the real estate?

MR. REED: If the witness is an expert on real estate values.

MR. DICKINSON: I do not think——

MR. REED: You say he is?

MR. DICKINSON: No; I say I do not think it takes an expert for a man to know what his own property is worth.

MR. REED: We object to it, as the witness has not been shown to be an expert in the valuation of real estate.

MR. DICKINSON: I am not asking him as an expert; I am asking him his knowledge of the value of the real estate which was turned over to the American Tin Plate Company.

THE WITNESS: I do not think I would be able to give you an intelligent answer on that.

By MR. DICKINSON:

Q. How much realty was there?

A. It runs in my mind that there were probably about seven or eight acres.

Q. Where was it situated?

A. In McKeesport, Allegheny County.

Q. How long had your company owned it?

A. I could not answer that, but I know they owned it from about 1871 or 1872; a little before my time.

Q. Have you no knowledge as to the value of it?

A. Really, I have not.

Q. Or no opinion as to the value of it?

MR. REED: That is objected to as incompetent.

By MR. DICKINSON:

Q. Now you can answer the question.

A. Oh, that property at that time was probably worth maybe $15,000 or $20,000.

Q. You say the eleven mills cost on the average $30,000 each?

A. That is approximate.

Q. I understand, yes.

A. That is, as mills went in those days, I would say about $30,000 each.

Q. And the real estate was worth from $15,000 to $20,000?

A. That is really a guess.

Q. I understand; yes. The price that you obtained for the property was on a valuation of $550,000?

A. Yes, sir.

Q. State whether or not that was on the basis of a cash or a stock transaction.

A. That was on the basis of a cash transaction.

Q. In the closing of the actual transaction, did your stockholders, or those interested in that company, take stock or cash?

A. The very large majority of the purchase price was taken in stock.

Q. On what basis were they given stock instead of cash?

A. They were given seven per cent cumulative preferred stock at par, with a share of common stock accompanying each share of preferred.

Q. That was on the basis of two for one?

A. Two for one.

Q. One being cummaltive seven per cent and the other common?

A. Yes.

Q. Before you sold this property, how long had you been in the tin plate business?

A. Since 1891. We made just a little tin plate immediately after the passage of the McKinley Law.

Q. And from that time up to the time of the sale, you were steadily in that business, were you?

A. Yes.

Q. And your concern within that time constructed eleven mills, you said?

A. No, we had five mills prior to 1891, which were engaged in the making of sheets.

Q. And they were converted, were they?

A. It was only after the passage of the McKinley Law, in 1891, that we engaged in the making of tin plates on what was originally sheet mills; and then in 1897 we built the six additional mills.

Q. The sheet mills, with some changes, are convertible, are they, to use for making tin plate?

A. Yes, sir.

Q. Were you or not with your present concern at the time it constructed this plant at McKeesport?

A. The McKeesport Tin Plate Company?

Q. Yes.

A. Yes.

Q. State whether or not you are familiar with the cost of construction of tin plate mills.

A. Well, in a way I am familiar. I know approximately what our plant cost us.

Q. In building that plant, state whether or not you informed yourself as to the prices generally, and the cost of such structures.

A. Yes. I might remark right here that there might be a great deal of difference in the cost of the construction of a tin mill. It depends entirely on the size of the mill that is constructed, and one concern might build a tin mill for, well, I think it is no exaggeration to say less than half what another concern would build one for.

Q. There are some people who are good business men and some who are poor, are there not; and then the question of location might make some difference, might it not?

A. Yes. Well, in that case I would say that the concern spending the most money would be the best business men.

Q. You mean the one that cost the most would be the best?

A. Yes.

Q. By reason of getting a higher character of plant?

A. Well, yes, a higher character of machinery right through, and therefore more efficiency in the work.

Q. Mr. Crawford, based upon your experience in the business and your knowledge in the construction of tin mills, and the knowledge acquired by you of the properties of the American Tin Plate Company in your capacity as traveling auditor, please state, at the time that these various mills were taken over by the American Tin Plate Company, what would in your judgment have been the cost of reproduction of all of those mills?

MR. REED: Do you mean just as to the mill machinery, Judge Dickinson, or as to the reproduction of all the plants?

(The question was re-read by the stenographer down to a certain point, as follows:)

"Q. Mr. Crawford, based upon your experience in the business and your knowledge in the construction of tin mills, and the knowledge acquired by you of the properties of the American Tin Plate Company in your capacity as traveling auditor, please state, at the time that these various mills were taken over by the American Tin Plate Company"—

MR. DICKINSON: What would have been the value of all of those properties?

(The question was read as amended.)

MR. REED: That is objected to for the reason that any such appraisement involves an expert knowledge of the value of real estate in many different localities and states, which the witness has not yet been shown to have, and involves a detailed knowledge of the character and size of the properties acquired, which he has not been shown to have. It is objected to because he has not been shown to be competent to appraise or value the properties about which he is asked.

By MR. DICKINSON:

Q. Now answer the question.

A. Well, I believe the properties could have been duplicated at that time, to be conservative in the matter, at say eight or ten millions of dollars, easily.

Q. Mr. Crawford, state whether or not at the time you built the present plant of the McKeesport Tin Plate Company, in 1902, you approached the officers of the Mesta Foundry & Machine Company on the subject of furnishing machinery for that proposed plant.

A. Personally, I did not. Our engineer did.

Q. Who was your engineer?

A. S. Discher & Sons.

Q. Where are they?

A. They are located in the Farmers' Bank Building.

Q. In this city?

A. In Pittsburgh; yes, sir.

Q. State whether or not your engineers went by the authority of your company to the Mesta Foundry & Machine

Company for the purpose of obtaining machinery from them for your company.

A. I could not say they did. I might say in that connection—

Q. Do not state any hearsay. I do not want to get that mixed in here.

A. Well, the Mesta people did notify us that if we would hold off the placing of our contract for an indefinite period, they might in the very near future be in position to do the work for us.

Q. Whom did they notify?

A. They notified our engineers to that effect, by letter, and I read the letter.

Q. To whom was that letter addressed?

A. To S. Discher & Sons.

Q. To the engineers?

A. Yes, sir.

Q. You have not that letter, have you?

A. No, sir.

Q. Do you know where the letter is?

A. I presume it is on their files. I do not know.

Q. Did you see the letter yourself?

A. Yes, sir.

MR. DICKINSON: We will undertake to produce that letter, but as I do not want to recall this witness, and of course subject to your objection, I am going to ask him what the contents were.

MR. REED: We object to it also for the reason that no grounds have been laid for the use of the declarations of other persons against these defendants. If the letter itself can be produced, we also object on the ground that the letter is the best evidence of its contents.

By MR. DICKINSON:

Q. State what they said in that letter.

A. The substance of the letter was that if we would withhold the placing of our contract for rolling mill machinery, they might in the very near future be in position to bid on it

for us. If my recollection serves me right, the letter was in answer to an inquiry of them to build engines for us.

Q. As a matter of fact, did you get your machinery, rolls and so forth from the Mesta Company?

A. No, sir.

Q. Where was that company located?

A. The Mesta Company?

Q. Yes.

A. At West Homestead, Allegheny County.

Q. How far from Pittsburgh?

A. About seven or eight miles.

Q. And where were your works to be located?

A. At Port View.

Q. How far?

A. In Allegheny County, fifteen miles from Pittsburgh.

Q. Where did you get your machinery; from what company?

A. From the Wheeling Mold & Foundry Company, located at Wheeling, West Virginia.

Q. At Wheeling, West Virginia?

A. Yes.

Q. Was that an old or a new concern?

A. That was a new concern at that time.

(At 12:30 o'clock P. M., an adjournment was taken until 2:00 o'clock P. M.)

AFTER RECESS

At the expiration of the recess the hearing was resumed.

EDWIN R. CRAWFORD

resumed the stand for further

DIRECT EXAMINATION.

By Mr. Dickinson:

Q. Mr. Crawford, state whether or not at the beginning of the year 1908 there was any meeting or if there were any meetings in Pittsburgh of those manufacturers who were engaged in the manufacture of tin plate, or those who were engaged in the manufacture of sheet steel.

A. Yes, sir.

Q. How many meetings of those people took place during that year, or about how many?

Mr. Reed: This is the year 1908 you are inquiring about?

Mr. Dickinson: 1908, yes, sir.

A. I would not like to attempt to say just how many meetings there were, but we held meetings frequently, perhaps sometimes every month, sometimes two months apart, or more.

Q. State whether or not you were at such meetings presided over by Mr. James A. Campbell, of the Youngstown Sheet & Tube Company.

A. Yes, sir.

Q. If Mr. Campbell made any statement at that meeting indicating the purpose of coming together, and if he made any statement in regard to the dinners which are generally known as the Gary dinners, please state what he said.

A. As I remember it, at the first meeting held after the Gary dinners were started, Mr. Campbell explained to us that he had been appointed on a committee with others representing the tin plate and sheet manufacturers, and that it was the duty of this committee to have a meeting of the sheet and

tin manufacturers from time to time for the purpose of discussing the condition of the business, in general; that we were at that time facing a financial crisis in the country, and if we all went out in our respective lines naming prices entirely independent of one another, we might bring upon ourselves ruin, and that in the face of the financial condition it might perhaps be better to meet and exchange views as to general trade conditions, and see if the business could not be handled in a way that would help the trade in general, particularly the financial condition of the country.

Q. If he made any statement in regard to some not being invited to the Gary dinners, and as to what their feelings about it might be, state what that was.

A. I do not know that there was anything in particular said about that, except that it might be said that all the makers of the different lines could not be invited to New York to participate in meetings there. I think we all understood that if such were the case, it would have made such a great number that it would have been burdensome, and that the crowd could not be handled, and these sub-committees were appointed for the purpose of holding meetings separately.

Q. Who were present, as far as you can recall, at these meetings?

A. At that meeting?

Q. Well, at that first meeting, when Mr. Campbell made this statement.

A. I could make the statement virtually that all the sheet and tin plate manufacturers, or their representatives, were there, or the different companies.

Q. All the sheet and tin plate manufacturers were represented at these meetings?

A. Yes. It would be a long list of names to attempt to name them.

Q. Can you name some that you can recall that were there?

A. Mr. Campbell, of course, was there, representing the Youngstown Sheet & Tube Company. Mr. Scott or Mr. Westfall was there, representing the La Belle Iron & Steel Works.

Q. Mr. I. M. Scott?

A. Yes, Mr. I. M. Scott or Mr. Westfall; sometimes both and sometimes only one.

Q. Was there a representative of the American Sheet & Tin Plate Company?

A. If my recollection serves me, Mr. Bray and Mr. Pargny represented the American Sheet & Tin Plate Company.

Q. How about the Inland Steel Company?

A. The Inland Steel Company was represented by Mr. Beatty and Mr. Jones. Mr. Weir was there, representing the Phillips Sheet & Tin Plate Company.

Q. What are Mr. Weir's initials?

A. E. T. Mr. Follansbee represented the Follansbee Company.

Q. Which one was there?

A. Mr. B. G. Follansbee and Mr. W. C. Follansbee I believe were both there.

Q. Was there anybody representing the Louis Follette Tin Plate Company?

A. That is the Standard Tin Plate Company; it was represented by Mr. Follette. The Washington Tin Plate Company was represented by Mr. O'Connor. The National Enameling & Stamping Company was represented by Mr. Niedringhaus; T. K., I believe.

Q. What was the object of these meetings?

A. As I stated before, the object of the meeting was for the purpose of discussing the trade in general, and after a free discussion of conditions we would state, each for himself, that until we found some reason to make a change, our price for our respective products would be a certain figure. It was made very clear that there could not be any agreement for the maintenance of the market—the market prices.

Q. What do you understand by "agreement" in the sense in which you use it there?

A. I would understand by "agreement" there, that there would be a written agreement, or that there would be a record of meetings kept; that each one bound himself to do certain things. In these meetings such was not the case.

Q. You had no written contract?

A. There were no records. There was no penalty; there

was no attempt at the allotting of business; there was no attempt at controlling production. If I would get up and say for our company, "We will name $3.50 a box on tin plate until we feel that there is some reason to change that," there was no penalty in case I would walk out of a meeting and name $3.00, or any other price.

Q. There was no contract and no penalty?

A. No, sir.

Q. And no apportionment of production?

A. No, sir.

Q. Was there or not what you understand as a gentlemen's agreement as to following the price that was named, until the next meeting?

A. There would be a general understanding that we would do what we would say we would do—quote a certain figure until, as I say, we found reason to change it; and if we found reason to change it we would notify our competitors, or talk with them about it, when another meeting would be held and conditions discussed.

Q. Another meeting would be held?

A. Yes.

Q. Who first, if any, announced the price at the meeting, or do you know?

A. I would not say that that fell on any one in particular. I might say, after a few introductory remarks by Mr. Campbell, perhaps giving us some little outline of what occurred in New York at the Gary dinner, then the meeting was open for discussion, and the one taking the floor—or, really, they were not conducted along parliamentary lines, at all; we would just sit in our chairs and say, "We think so and so," and go on and tell each other about it.

Q. Would or not a price be suggested?

A. A price would always be suggested.

Q. State whether or not, before they left, there was any difference as to what each one said he was going to charge, or whether it would be the same.

A. It was always unanimously agreed, or the statement was unanimous on the part of all, that they would quote a certain price.

Q. Did any instances arise where it became necessary because those who attended those meetings or their sales people had quoted a different price?

A. There would be at times discussions as to this or that concern having quoted a price less than what they said they would quote at a previous meeting; but I do not think there was anything in the shape of what you would call complaints, or charges—better put it that way.

Q. Would or would not the matter be brought up?

A. The matter would be brought up and discussed, and that discussion would simply end it; because there was nothing to do in case there was.

Q. What would you do, if anything, in regard to the future prices?

A. Then we would say: "Well, we will quote a certain price, until we find reason to change it."

Q. Then you would leave with the same understanding, that each was going to sell at that price?

A. Yes, sir.

Q. State whether or not any one made any remark at any such meetings that if they cut the price it would be found out.

A. I think we discussed that among ourselves in general. I might say that if any one quoted a lower price to a particular customer of mine than we did, that I would find it out.

Q. State whether or not any suggestion was made with regard to a person to whom complaints would be made in case of the cutting of prices.

A. I would not say that I ever knew of a complaint being made, outside of the general discussion that would take place at these meetings, and I would not be prepared to say that there was any one delegated to receive complaints. I rather think such was not the case.

Q. My question was not if any one was delegated for that purpose, but if any announcement was made to the effect that complaints could be made to any one, if any one desired to make complaints?

A. I could not say there was.

Q. How did you get notices of these meetings?

A. Either by telephone, or in writing, sometimes.

Q. From whom?

A. From Mr. Campbell, usually.

Q. Did Mr. Campbell continue to preside at all of the meetings of the sheet steel and tin plate people, or how was that?

A. Mr. Campbell presided at all of the meetings of the sheet and tin plate manufacturers when they met together; but after a short time it was decided to hold separate meetings of the two branches, after which Mr. Weir presided at the tin plate meetings.

Q. Do you know who designated him as the presiding officer of the tin plate meetings?

A. I would not make a positive statement.

MR. REED: The question is only if you know.

THE WITNESS: Well, I do not know. I am not positive.

By MR. DICKINSON:

Q. If you heard any request made to him by any one, you could state that.

A. No, sir; I did not hear that, but I understand—

MR. REED: You were not asked what you understood, Mr. Crawford.

By MR. DICKINSON:

Q. State whether or not you understood from Mr. Campbell who was to preside. Did you get any understanding from him as to who was to preside at the tin plate meetings?

A. From Mr. Campbell?

Q. Yes.

A. No, sir.

Q. All right. How about Mr. Weir? Did you get any understanding from him about it?

A. I think I did from Mr. Weir.

Q. What did he say about it?

MR. REED: Objected to as hearsay.

THE WITNESS: If my recollection serves me right, I think Mr. Weir told me that he had been designated by Mr. Campbell.

By Mr. Dickinson:

Q. How long did these meetings continue? Down to what period? I do not mean the exact date; but what year, about; about what time?

A. I rather think they continued along until 1910.

Mr. Dickinson: That is all.

CROSS-EXAMINATION.

By Mr. Reed:

Q. First, as to these meetings that you have just been testifying about, Mr. Crawford: Did you yourself consider after these meetings that you were at liberty to go out and do as you chose in regard to quotations?

A. Oh, absolutely.

Q. Did you feel that you were under any obligation to any of the other tin plate manufacturers to maintain a fixed schedule of prices until the next meeting?

A. Only a moral obligation.

Q. That is what I want to find out,—about the extent of the moral obligation. Was not the only obligation you were under that of being frank and open with your competitors, and, if you decided to change your prices, to let them know directly, instead of waiting for them to find out through their customers?

A. Yes, sir.

Q. Was there any obligation, moral or of any other kind, or any gentlemen's agreement, that you should persist until the next meeting, whenever that might be, in making a fixed rate of quotations, quoting a fixed price until the next meeting? Or were you free, at any time, in conscience, to change your prices if you simply notified your competitors of your decision?

A. If we notified our competitors of our decision?

Q. Yes.

A. Oh, there was absolutely no obligation.

Q. You understand I do not refer only to written obligations, but I mean obligations of honor as well?

A. I think, as I stated at the meeting, the price we named would be maintained until we found reason to change it.

Q. In other words, that was a statement of your present intention?

A. That was a statement of our present intention; and, as I say, we could go out, leave that meeting and go out and quote any price we pleased. There was not any penalty or anything of that kind; and if we notified our competitors that we were not going to hold to any price that was stated at the meeting, that, I would say, ended any moral obligation on us.

Q. Certainly. In other words, the obligation that you owed your competitors was that of dealing with them frankly?

A. Yes.

Q. And being candid and open and above board in regard to the conduct of your business?

A. Yes, sir; and we thought that quite necessary, for the reason that buyers of a product very often misrepresent conditions.

Q. I was coming to that in a minute.

A. (Continuing) And we felt that we could exchange information with one another as competitors rather than, in many cases, to believe what the buyer would tell us.

Q. Prior to these meetings what means had you of learning what your competitors were doing, what quotations they were making?

A. The only means we had at that time would be what the buyer would tell us, or else through the trade papers.

Q. At these meetings you would exchange information directly, instead of getting it through the buyers? Is that right?

A. That is it, exactly.

Q. In other words, you did business just as it is done by a clothing merchant who hangs a tag on the suits that he handles, to let everybody know what you are charging?

A. Yes.

Q. I want to read one sentence to you from the petition

filed by the Government in this case, and I will ask you to follow it carefully:

"It is not here alleged that merely assembling and mutually exchanging information and declaration of purpose amounts to an agreement or combination in restraint of trade."

Did you, at those meetings, do anything more than merely assemble and mutually exchange information, and declare your purposes?

A. That is all we did.

Q. Mr. Crawford, how many hot mills have you at present in your McKeesport Tin Plate Company?

A. Twenty-two.

Q. Then it is one of the largest tin plate companies competing with the American Sheet & Tin Plate Company?

A. Yes, sir.

Q. Is there any larger one, except Jones & Laughlin?

A. There is no larger single plant.

Q. There is no larger single plant in the United States, is there?

A. Not outside of the American.

Q. The first group of mills that you installed was completed in 1902, as I remember your testimony?

A. In 1903.

Q. In 1903?

A. Yes.

Q. They were ordered in 1902?

A. Yes.

Q. The Wheeling Iron Foundry supplied your rolls and mills?

A. Yes; our rolling mill machinery, yes.

Q. How many mills did you put in at the beginning of your company's operations?

A. Ten.

Q. When was it that you ordered the additional twelve mills?

A. We ordered an additional ten mills in 1909, and an additional two mills in 1910.

Q. So that your capacity since 1903, when the mills were

completed and the company began business, has more than doubled?

A. Yes.

Q. Has your company, generally speaking, been prosperous?

A. Well, fairly so.

Q. It is one of the most prosperous, is it not, of all the companies competing with the American Sheet & Tin Plate Company?

A. Of course, I have no way of knowing just what the others do. We are very well satisfied.

Q. That is what I mean. Of course, you do not want to go into the details of your business. But, generally speaking, it has been a condition of satisfactory prosperity?

A. Yes, sir; quite so.

Q. How do you find the American Sheet & Tin Plate Company as compared with your other competitors in the character of its competition? Has it been generally fair?

A. Generally very fair. They are the best competitors we have, because they are absolutely fair.

Q. You do not find them resorting to underhand methods to keep you out of business?

A. No, sir.

Q. When you were traveling auditor for the American Tin Plate Company it was your duty to study the costs of different plants of that company, was it not?

A. Yes, sir.

Q. And was a comparative study of the costs in the different plants made during your employment by that company?

A. Yes, sir.

Q. I suppose it was found that the costs of some mills were much higher than those of others?

A. Yes, sir.

Q. Sometimes you were surprised, were you not, in finding how high the costs of some mills were?

A. Yes, sir.

Q. And you could not tell, when you took up that work, which of those mills were the cheapest producers, could you?

A. Yes. I think that can be pretty well determined by looking at the physical conditions of the plants.

Q. To some extent. But if that could be conclusively determined by the mere appearance of the plants, there would have been no necessity for your work?

A. That is true.

Q. You would have a general idea only by appearance?

A. Yes.

Q. It takes the figures, then, to verify your opinion?

A. Precisely so. And sometimes you found that the first opinion had to be modified, did you not?

A. Very often.

Q. So that it was not until your work in this department of comparative costs had progressed for some time that it was possible for anybody to say authoritatively which were the most economical mills of that company? Am I right?

A. I think that is a fair assumption.

Q. And until that work had progressed it was not possible to say which mills ought to be abandoned and which mills ought to be consolidated? Am I right in that?

A. Let me understand—

Q. Let me ask the question again, and perhaps I can make it more clear.

The work that you did was necessary in order to enable the managers of the company to determine which works to enlarge, which works to consolidate, and which works to abandon?

A. Well, I am rather inclined to think that the plants that were abandoned for the most part were never operated by the American Tin Plate Company, or only for a very short time.

Q. I see. Where they were operated for a short time, that was long enough to enable you to get some idea of their cost?

A. Yes, sir.

Q. I want to go, now, to those properties of the United State Iron & Tin Plate Company at Demmler. Demmler Station is in McKeesport, is it not?

A. Yes.

Q. What property did you turn over to the American Tin Plate Company aside from the hot mills in the plant and the real estate?

A. The property turned over in addition to that would be spare parts for machinery, and inventory, such as raw material, stock in process, and finished material.

Q. This United States Iron & Tin Plate Company had a building, I presume, on that land?

A. Oh, yes; that was the plant. The building is a part of the plant.

Q. Yes; but the building is not a part of the tin mill.

A. Well, you certainly could not operate a tin mill without a building—not in this country.

Q. Was the cost of the building included in your estimate of the cost of the tin mill?

A. Yes, sir.

Q. Did you turn over to the Tin Plate Company your outstanding accounts?

A. No, sir.

Q. You just sold the physical property?

A. We just sold the physical property.

Q. But you sold it as a going business?

A. Yes, sir.

Q. And as a going business, of course, it has a greater value than it would have had simply as so much machinery?

A. Oh, yes.

Q. Or so much inventory?

A. Yes. That is generally accepted, I think.

Q. In your opinion, what was the fair cash value of the United States Iron & Tin Company that you sold for $550,000, as a going business? Was it worth what you got for it?

A. I should say that business was worth probably around the amount we got for it, yes, sir. There were eleven mills there.

Q. And as a going business, including the inventory—

A. (Interrupting) No. That price of $550,000 did not include the inventory.

Q. But it included the other property of the company?

A. It included the plant, fitted up, ready for operation; but no materials with which to operate.

Q. But, of course, it included the organization, whatever that was?

A. Yes, sir; and the good will of the business.

Q. And you say that that was worth about what you got for it?

A. Yes, sir.

Q. Did you yourself take stock for your share in the property?

A. Yes, sir.

Q. You did not take any part in cash, did you?

A. No, sir.

Q. And you took one share of preferred at its par value in cash with one share of common as bonus; so that on the total par value of the stock you got you figured it out fifty cents on the dollar. In other words, you got twice as much in par value as the cash that you could have gotten instead of the stock?

A. That is, with both stocks combined?

Q. Yes.

A. Yes, sir.

Q. What was the preferred stock issue of the American Tin Plate Company at that time?

A. I do not remember that.

Q. It was about $23,000,000, was it not?

A. I thought it was about $28,000,000, but I am not certain.

Q. About $28,000,000 preferred. And about how much common?

Mr. Dickinson: Were you speaking about preferred stock first? What were you asking him about?

By Mr. Reed:

Q. About the preferred.

A. I thought it was maybe around twenty millions; eighteen to twenty million dollars of preferred, and about thirty million dollars of common, I think; but I am not certain of that.

Q. That is a little vague. You think that first estimate of $28,000,000 was too large?

A. That was too large.

Q. And you now put it at about twenty million dollars preferred and about thirty million dollars of common?

A. Yes, sir; but I am not certain of those figures. I do not remember.

Q. Mr. Crawford, when did you first appraise these properties of the Tin Plate Company and get this result that you gave us here to-day? In other words, how long had you been thinking over the matter before you made this appraisement to-day of $8,000,000?

A. I arrived at that figure—I think I would say it was common knowledge at the time that the transfer was made in 1898.

Q. I am not asking you for the estimates that you got from common knowledge, but I am asking you how many days prior to to-day was it that you made up that estimate so that you could give it as your opinion under oath?

A. During the past two or three weeks.

Q. During the past two or three weeks?

A. During the past two or three weeks I have thought the matter over.

Q. And you concluded that that was a fair statement to give in a sworn opinion of value?

A. At that time; in 1898?

Q. Of course.

A. Yes.

Q. You concluded, within the last three weeks, that you could properly swear to that as your opinion of the value of the property in 1898?

A. Yes, sir.

Q. Mr. Crawford, do you know anything about the value of land in Bridgeport, Ohio?

A. No.

Q. Are you an expert on the value of land in Elwood and Montpelier, Indiana?

A. No, sir.

Q. Or Atlanta, Indiana?

A. No, sir.

Q. Or Baltimore, Maryland?

A. No, sir.

Q. Or Lisbon, Ohio?

A. No, sir.

Q. Or Blairsville, Pennsylvania?

A. No, sir.

Q. Or Cleveland, Ohio?

A. No, sir.

Q. Or Cannonsburg, Pennsylvania?

A. No, sir.

Q. Or Muskegon, Michigan?

A. No, sir.

Q. Or Cincinnati, Ohio?

A. No, sir.

Q. Or Cleveland, Ohio?

A. No, sir.

Q. There is a long list here, and you might stop me when I come to any place as to which you consider yourself an expert on real estate values.

A. In order to save your time, I might state that I am not an expert on land values at any place in the country, not even in Allegheny County.

Q. And yet, in addition to the towns I have named, this company acquired land in Cumberland, Maryland,—

MR. DICKINSON: I object to that.

MR. REED: Do you not think it did, Judge? Why do you object to it?

MR. DICKINSON: I do not think it proper for counsel to be making statements of fact. It is not proper cross-examination.

MR. REED: This is a part of a question that I am about to ask him, Judge.

MR. DICKINSON: But you were asserting it as a fact; stating to the witness that they did acquire it; and you are not on the witness stand. I do not think it is proper for you to give testimony in the case.

MR. REED: Yes; but I think I am fairly entitled to quote from your petition as a part of my question, and then ask

the witness' knowledge about it. If you prefer, I will strike that out and ask the question again.

MR. DICKINSON: Are you quoting from the petition?

MR. REED: Yes, sir.

By MR. REED:

Q. Now, Mr. Crawford, bearing in mind the fact, as admitted in the petition filed by the Government in this case, that part of the property of the American Tin Plate Company at the time of its organization were plants in the towns that I have named, and also in Cumberland, Maryland; Elwood City, Pennsylvania; Niles, Ohio; Joliet, Illinois; West Newton, Pennsylvania; Connelsville, Pennsylvania; Middleton, Indiana; Johnstown, Pennsylvania; Wheeling, West Virginia; Martin's Ferry, Ohio; Philadelphia, Pennsylvania; Pittsburgh, Pennsylvania; Gas City, Indiana; Cambridge, Ohio; Monessen, Pennsylvania; Anderson, Indiana; New Castle, Pennsylvania; New Kensington, Pennsylvania; Canal Dover, Ohio; McKeesport, Pennsylvania; Irondale, Ohio, and Washington, Pennsylvania; that you are not an expert in the real estate values in any of these cities; I wish you would tell us on just what you base your opinion as to the value of the land that that company acquired. I am not talking about the tin plate mills now, but I want to know on what you base your idea as to the value of the ground?

A. As to my opinion, I will say that I think the ground that you have just spoken of is worth very little.

Q. Your opinion as a non-expert is that the land is worth very little?

A. Very little.

Q. And so you did not take that into account at all, did you?

A. I might say, in explanation of my figures as given there, that I had considered that the land could be purchased and mills erected to duplicate their production, and the erection be done in a manner that would have duplicated it in a much more economical way for eight million dollars to ten million dollars.

Q. Then you did not mean to include the value of these properties that were put into the Tin Plate Company, when

you mentioned eight million dollars to ten million dollars, but you were only undertaking to say that for eight or ten million dollars you could build a plant somewhere that would contain as many hot mills, and have the same capacity as these combined mills? Was that what you meant?

A. It would not necessarily all go in one plant.

Q. You could build several plants, then. But was that what you meant?

A. The properties could be duplicated.

Q. Take the Star Tin Plate Company in Pittsburgh. You know the location of that plant?

A. Yes; very well.

Q. Down near the Union Station?

A. Yes, sir.

Q. In your estimate of value were you counting on duplicating real estate of the same value as the Star Tin Plate Company owned?

A. Certainly not.

Q. That property alone is worth a million dollars, is it not, pretty nearly? I mean the real estate alone?

A. I do not know. I do not think so.

Q. It is worth pretty nearly that, is it not?

A. I would not think so; but I do not know. I am frank to say that I do not know.

Q. You make estimates for the Government, and you will not make them for me. I want you to be as free in guessing at the values as you were for Judge Dickinson. Do you not think that the Star plant, the real estate alone, is worth a million dollars?

A. I would not say that.

Q. How much would you put it at?

Mr. DICKINSON: What time are you asking him about?

Mr. REED: I am asking him about 1898.

Mr. DICKINSON: You did not say that.

Mr. REED: All of this estimate of value relates to 1898.

Mr. DICKINSON: Your questions were always in the present tense. That is the reason I asked to what time you were referring.

THE WITNESS: I thought I explained my position there when I stated that for the then capacity of the American Tin Plate Company, in 1898, that real estate could be purchased in desirable locations, from a manufacturing standpoint, and mills constructed with equal production at a cost of eight to ten millions of dollars.

By MR. REED:

Q. Then you did not take into consideration the actual value of the plants that were purchased, but you only considered the probable cost of an equivalent of such a plant?

A. That would be it. That would probably be the better way to put it. I certainly did not take into consideration the actual value, say, of property like the Star Mill was located on, or the Fifteenth Street property over here; but the property generally on which the mills are located—I could go into a long list of them; you spoke of plants out in the gas belt, Gas City, Anderson, Middleton, Montpelier, Joliet, and those places—the ground on which they were located at the time virtually had no value.

Q. And what you were thinking of was the cost of creating plants of similar capacity to these on land like that out in Gas City, for instance?

A. No, no. I would not have thought of locating any plants in that territory at all, because it is not a desirable one.

Q. I think we understand you,—that you meant you would not buy similar properties to those on which the Star plant and the Monongehela plant were located, for instance?

A. Exactly; that is it. Because that is an expensive property. That is city property.

Q. In that estimate of building such plants, which you put at from eight to ten million dollars, of course you were not including any value that going plants might have as going concerns, were you? You were thinking of reproducing the tangible property?

A. That is it exactly; representing the tangible property.

Q. I want to ask you one question about the real estate of your own plant out in McKeesport. That was bought away back in 1871, was it not?

A. That is, our iron and tin plate company?

Q. Yes.

A. Yes. I think about 1870 or 1871, along there. I do not remember that.

Q. Both you and McKeesport were pretty small in 1871?

A. Yes.

Q. And so the price that was paid for that land in 1871 was no indication of its value in 1898?

A. I think that would be true, yes, sir.

REDIRECT EXAMINATION.

By Mr. Dickinson:

Q. Had that particular property increased very much in value since that time?

A. I would say that there had been a reasonable increase.

Q. How much would you say had been the increase in the value of that particular piece of property?

A. I do not think it would be exaggerating to say that the property in 1898 was easily worth double what it was in the early seventies, with the natural growth that has occurred.

Q. What did you say it cost in the early seventies? Did you say?

A. I did not say what it cost in the early seventies.

Q. What value did you put upon it?

A. I put a value of fifteen or twenty thousand dollars on it in 1898.

Q. Mr. Crawford, with regard to your meetings which you have described, state what the effect of those meetings was, generally, as to the maintenance of prices?

A. I think the effect was to keep up a steady price.

Q. To keep a steady price?

A. A reasonably steady price. There were some fluctuations, of course.

Q. There always had been some fluctuations, had there not, even in the days of pools?

A. Yes, I guess so. I was never connected with any pools, or anything of that kind.

Q. Was it or not a part of your understanding, after these prices were announced, that you were under a moral obligation to sell at that price until you did notify your competitors?

A. Yes, sir.

MR. REED: What days do you mean, Judge, when you say the days of the pools? There have been no pools proven in tin plate.

MR. DICKINSON: He said he knew nothing about it, so there is no harm done. I mean, generally, in the period when pools prevailed.

MR. REED: There is no evidence of any pools in the tin plate industry.

MR. DICKINSON: I did not speak of the tin plate industry.

By MR. DICKINSON:

Q. You were asked whether or not prior to those meetings that began in 1908 you had any means of knowing what your competitors were doing. Had you had other meetings in the years prior to 1908?

A. We had had meetings prior to 1908, yes. I think we had meetings in, probably, 1905 and 1906.

Q. Did you or not at those meetings have the opportunity of knowing what your competitors were doing?

A. Yes.

Q. The same as you had in 1908?

A. Yes, sir. I really meant prior to the time of meetings the only way we had of knowing what our competitors were doing was through the buyers.

CHARLES HERBERT BOOTH,

called as a witness by and on behalf of the United States, being first duly sworn, testified as follows:

DIRECT EXAMINATION.

By Mr. Dickinson:

Q. Where do you live, Mr. Booth?

A. Youngstown, Ohio.

Q. What is your age?

A. Fifty-one.

Q. In what business are you engaged?

A. The foundry and machine business.

Q. In connection with what company or corporation?

A. The United Engineering and Foundry Company.

Q. State whether or not you were a member of the firm known as Lloyd Booth & Company.

A. Yes.

Q. Has that company ceased to do business?

A. Yes, sir.

Q. Was that company doing business in 1899?

A. Yes, sir.

Q. Mr. Booth, state whether or not in 1899 you were in Chicago in company with representatives of other machine and foundry companies that were making products similar to those of your own company?

A. I was.

Q. Were those who were there and your company making mills on which tin plate was manufactured?

A. Yes, sir.

Q. Did you have any conference, while in Chicago, with the officers of the American Tin Plate Company?

A. We did.

Q. State what officers of that company you and these other gentlemen of whom I have spoken conferred with?

A. Mr. Reid and Mr. Leeds.

Q. Give Mr. Reid's initials.

A. D. G. Reid.

Q. And by Mr. Leeds'?

A. Mr. W. B. Leeds.

Q. What position did Mr. Reid then hold with the American Tin Plate Company?

A. I believe he was president.

Q. Please state, first, who were there, what companies were represented, manufacturing machinery similar to your own?

A. As I recall, the Garrison Foundry Company, the Seeman-Sleeth Company, the Robinson-Rea Manufacturing Company, the Mesta Machine Company, McIntosh, Hemphill & Company, Frank Kneeland Machine Company, and the Lincoln Foundry Company.

Q. Was that the Lincoln Roll & Foundry Company?

A. Perhaps it was the Lincoln Roll & Foundry Company.

Q. How about the George A. Hogg Iron & Steel Foundry Company?

A. I think they were there, but I do not remember.

Q. They were in that business, were they?

A. They were in that business, yes.

Q. How about the Riverside Foundry Company?

A. I do not remember that they were there.

Q. How about the Lewis Foundry & Machine Company?

A. They were there; they were represented.

Q. And the Apollo Iron & Steel Company, were they represented?

A. Not that I remember.

Q. Those who were there, and those who subsequently acted in concert with you, what proportion did they constitute, in the country, of people manufacturing that class of machinery?

MR. REED: In what way?

MR. DICKINSON: I have not indicated, but I will come to that later.

MR. REED: Is not counsel testifying about that?

MR. DICKINSON: I do not think I am. I will ask to have the question read.

(The pending question was read by the stenographer, and at the request of Judge Dickinson was again read, as amended by him, as follows:)

Q. Those who were there, what proportion did they constitute in the country of people manufacturing that class of machinery?

A. The majority—the majority in numbers, I would say.

By Mr. Dickinson:

Q. How about output?

A. I am not sure about that.

Q. How about in the Pittsburgh district?

A. The majority of output.

Q. The majority of numbers and output?

A. The majority of numbers and output; yes, sir.

Q. In the Pittsburgh district?

A. Yes, sir.

Q. State what took place there, whether or not you entered into any discussion as to proposed agreements, and whether you made any agreements there, and if not, whether you made them subsequently. Go ahead and tell us what you know about it.

A. We conferred there in regard to giving the Tin Plate Company the right to the capacity of our plants for the manufacture of tin plate machinery.

Q. Were there or not any conditions in regard to your making for others, in case you made that agreement with them?

A. Well, I do not remember the conditions of the contract that was made, but the supposition was—

Q. I am not speaking now of the contract.

Mr. Reed: I object to any evidence as to the supposition.

By Mr. Dickinson:

Q. I am not asking as to the contract that was made: I mean in the preliminary discussion there, were there any conditions proposed in regard to furnishing, if you made a contract with them, the independent mills?

Mr. Severance: I object to that.

Mr. Reed: I object to that as speculative.

A. We had the right to sell any mills that were then operating or built.

By Mr. Dickinson:

Q. How about mills that were to be constructed after that by others than the American Tin Plate Company?

A. My recollection is that we gave them the full capacity of our plants for that purpose, and that we would not build for other new construction without permission—something of that kind. I do not remember just what the contract was.

Q. Did you make a contract with the American Tin Plate Company?

A. We did.

Q. Were there separate contracts, or did you all join in one common agreement?

A. My impression was that they were separate contracts.

Q. You do not recall now? That is, a separate contract with each one?

A. With each concern.

Q. Were they separate contracts or not?

A. I never saw but one.

Q. That is, you would be there discussing the general purpose?

A. They were supposed to be similar.

Q. Did your company execute a contract?

A. Yes, sir.

Q. Where is that contract?

A. I cannot tell you.

Q. Have you a copy of it?

A. No, sir.

Q. You were requested to see if you had a copy?

A. Yes, and we made a search and have not found it.

Q. You have not found it at all?

A. No, sir.

Q. State whether or not there was another contract in the nature of a lease entered into, and what was the character of that contract in case independent mills should buy rolls or machinery.

A. I do not think there was a contract to that effect. My recollection is that there was simply one contract.

Q. Well, does that contract have a provision or not, that in case rolls and machinery were made for independent mills built after the formation of the American Tin Plate Company, these independents were not to use those mills for making any tin plate?

A. I do not remember the details of that contract, but I do remember that there was some either inference or talk, or something of that kind, but I cannot say that it was incorporated in a contract, because I do not remember.

Q. Do you know, as a matter of fact, whether or not your company ever made a contract with a tin plate manufacturer organized after the organization of the American Tin Plate Company, by which you reserved the right that they should not, within a certain period, manufacture tin plate on the rolls and machinery furnished by you.

A. I have not any recollection, now.

Q. How about making rolls for making sheet steel with the condition that it should not be used for making tin plate? Was there any such agreement or contract as that?

A. As I say, I do not remember the provisions of that contract.

Q. Did your company make any such machinery for independent makers of sheet steel, with terms and conditions that they should not use it for making tin plate within any certain period of time?

A. I do not recall that we did.

Q. What makers, what foundrymen making machinery adapted for making tin plate, were outside of this agreement and not tied up in the agreement?

A. You mean making tin plate mills?

Q. Yes, making tin plate mills.

MR. REED: As far as the witness knows.

MR. DICKINSON: Of course I am not asking him what he does not know. That goes without saying.

A. There was a foundry in Canton, Ohio.

By MR. DICKINSON:

Q. What was the name of that?

A. That may have been called the Canton Foundry &

Machine Company, or something of that kind. I do not remember.

Q. It was a roll and machine company?

A. They made mill machinery.

Q. Was that a large or small plant?

A. An average sized plant.

Q. Can you mention any others?

A. The Farrell Foundry & Machine Company, at Ansonia, Connecticut.

Q. What did they make?

A. Well, they make mill machinery of various kinds.

Q. Did they make machinery for making tin plate, at that time?

A. I do not know that they ever made any tin plate machinery, but they had every facility to make it.

Q. Well, I did not ask you about that.

A. I did not understand that you limited your question to those who were making it.

Q. Yes, I limited the question to those who made it.

A. There was this concern in Canton; and the William Todd Company at Youngstown I think had made some sheet or tin-mills.

Q. Do you know whether they ever made any tin mills?

A. I think they were sheet mills. A sheet mill and a tin mill are the same thing, so far as the mills are concerned.

Q. You mean to say a mill that makes sheet plate can also make tin plate?

A. The mills are the same, with the exception of the different lengths of the rolls, and some of the other details. It is the same class of machinery.

Q. How about the Birdsboro Foundry & Machine Company, at Birdsboro, Pennsylvania?

A. Yes; I was just trying to recall some others. I know that they made some machinery.

Q. Were they making machinery—rolls—at that time?

A. I do not know. They made some sheet mills for a plant in Youngstown about that time.

Q. State whether or not when the American Sheet Steel

Company was organized in 1900, your company made a contract with them similar to the ones you have described.

A. Yes.

Q. What other makers of like machinery made contracts simultaneously with your company?

A. I think about the same.

Q. About the same?

A. It is my recollection.

Q. Were there the same conferences, practically, between the same men?

A. I do not recall whom we talked with at the time the sheet steel contract was made.

Q. What is that?

A. I do not recall whom we talked with when the sheet steel contract was made.

Q. I do not mean what officers of the sheet steel company, but I mean those of the makers who entered into the contract. You conferred together, did you?

A. Yes.

Q. Where is that contract?

A. We have not got it. I do not know where it is.

Q. Have you looked for that?

A. We have searched for it; yes, sir.

Q. What were the provisions of that contract?

MR. REED: As far as the witness can remember them.

MR. DICKINSON: Yes, of course.

A. The provisions in that contract, as I recall it, were substantially the same as the provisions of the tin plate contract.

Q. When you spoke of the foundrymen making machines of the character referred to in the Pittsburgh district, what did you embrace in the Pittsburgh district, in your own mind, when you spoke of that being a majority in number and amount, in that district?

A. The Pittsburgh builders of that class of machinery were all in the City of Pittsburgh, speaking of the Pittsburgh district. You speak of the Youngstown as the Mahoning Valley district.

Q. Did you know of any makers of machinery of that character, outside of the Pittsburgh district and Youngstown? Would you include Youngstown in the Pittsburgh district?

A. I said that the William Todd Company had built sheet mills.

Q. Yes.

A. And I said that the Farrell Foundry & Machine Company at Ansonia, Connecticut, were builders of various kinds of mills, although I do not know that they ever built any tin mills. They had all the facilities for doing it. This concern in Canton, Ohio, that I referred to, built sheet mills and tin mills.

Q. With the exception of those named, at that time—

A. And this Birdsboro concern.

Q. (Continuing). I say with the exception of those you have named, did you know at that time of any other makers anywhere in the country that were making tin plate mills?

A. There was a concern in Norristown, Pennsylvania, called Newbold Brothers. I do not know whether they built mills or not. They built auxiliary machinery for mills.

Q. You do not know whether they built mills or not. Do you know of any others at that time that built tin mills?

A. I do not know, now. That is a long time back.

Q. I understand; that is all you can recollect?

A. Yes.

MR. DICKINSON: That is all.

CROSS EXAMINATION.

By MR. REED:

Q. Where is this Birdsboro Foundry?

A. At Birdsboro, Pennsylvania.

Q. Any foundry that can turn out a sheet mill can make a tin mill, can it not?

A. The same character of machines.

Q. A tin mill is usually a little bit lighter than a sheet mill?

A. That is about the only difference.

Q. As you remember these contracts, there was nothing in them that prevented you from making rolls for the competitors of the Tin Plate Company, was there, then in existence?

A. No. I am certain we were privileged to do so.

MR. DICKINSON: You mean those then in existence?

THE WITNESS: Those then in existence.

MR. DICKINSON: Yes.

By MR. REED:

Q. As you remember it, this contract did not last very long after the Steel Corporation was formed, did it?

A. Not very.

Q. At whose instance was it terminated?

A. I do not know who brought up the subject. I know Mr. Schwab terminated it.

Q. He was president of the United States Steel Corporation at the time?

A. Yes.

Q. That was about March, 1902, was it not?

A. I do not remember the month. It was in the year 1902.

Q. In the spring of the year 1902?

A. Well, I do not remember what month it was, but I know it was 1902.

Q. It was a few months after the Steel Corporation was formed, was it not?

A. Not long after it was formed: yes, sir. I remember that.

Q. And so far as you know, all contracts similar to this one with that company were cancelled at the same time?

A. That was the understanding; yes, sir.

Q. And of course that applied to the contract that you had with the American Sheet Steel Company as well, did it not?

A. They were both cancelled at the same time.

Q. And both cancelled at Mr. Schwab's insistence.

A. That is about the way it was.

Q. That is not too strong a word, is it?
A. Absolutely not.

MR. REED: That is all.

RE-DIRECT EXAMINATION,

By MR. DICKINSON:
Q. What became of the contract?
A. I am under the impression that the contracts were turned in when they were cancelled.
Q. Turned in to whom?
A. Turned in to Mr. Weil.
Q. Who?
A. A. Leo Weil.
Q. Who was he?
A. An attorney.
Q. Whose attorney?
A. He was attorney at that time for the American Tin Plate Company.

B. G. FOLLANSBEE,

called as a witness on behalf of the United States, being first duly sworn, testified as follows:

DIRECT EXAMINATION,

By MR. DICKINSON:
Q. What are your initials, Mr. Follansbee?
A. B. G.
Q. Where do you live?
A. Pittsburgh.
Q. What is your age?
A. Sixty-one.
Q. What business are you engaged in now?
A. The manufacturing of tin plate and sheet steel, and as a merchant and jobber in other materials, and importing a little.

Q. How long have you been a manufacturer of the articles you have stated?

A. Since September, 1904.

Q. Under what style has the business been conducted?

A. Follansbee Brothers Company.

Q. Is that the name now?

A. Yes.

Q. It has been continuous, has it, since that time?

A. Yes.

Q. State whether or not, at any time or times, within recent years, you have attended meetings of men engaged in the manufacture of tin plate.

A. During the years 1908, 1909 and part of 1910, I think.

Q. Did you attend such meetings?

A. Yes.

Q. Down to 1907, what had been the relations between the United States Steel Corporation and the independent makers of tin plate? Did they cultivate any relations with them or not?

A. No, not to the degree they did afterwards. We might consult with them or talk with them about prices occasionally, and different matters in relation to business.

Q. Were you drawn more closely together after that?

A. Yes, sir.

Q. Who attended these meetings?

A. The ones that I attended were attended by manufacturers of tin plate and sheet steel.

Q. At those meetings did anybody represent either the United States Steel Corporation or any of these subsidiary companies?

A. The only ones that ever met were people connected with the American Sheet & Tin Plate Company.

Q. Who attended as a representative of that company?

A. The president and the vice-president.

Q. Just name them, will you?

A. And possibly some others; Mr. Bray and Mr. Pargny.

Q. What manufacturers of tin plate, other than the American Tin Plate Company and yourself, attended those meetings?

A. There were quite a number of others; those that Mr. Crawford mentioned and also some others. I think there was somebody from the N. & G. Taylor Company of Philadelphia, and people from Canton, Ohio; the Carnahan Tin Plate Company; the American Roll & Foundry Company of Middletown, Ohio; I think, somebody from the Berger Manufacturing Company of Canton, Ohio, attended one or more.

Q. How often a year, generally, did these meetings take place?

A. Years differed; it might be twice a year, or maybe some years three times a year.

Q. You had no stated time, then, of meeting?

A. No, sir.

Q. How did you get together? What brought you together; what kind of a notice?

A. We had a telephone notice, some times. Some times there would be a letter.

Q. Whom, generally, would that letter come from, either telephone or letter?

A. Usually from Mr. James A. Campbell.

Q. Of Youngstown, Ohio?

A. Yes, sir.

Q. How did these meetings take place in reference to the Gary dinners?

A. Some times they were within two or three weeks after the Gary dinners, and at other times I do not know that a Gary dinner had anything to do with bringing it about. It might have been so, but I do not know. I never was at a Gary dinner, and I do not know just how much influence they had. Several times within two weeks after a Gary dinner, they occurred.

Q. At those meetings, state whether or not the question of prices at which these various representatives of these various concerns would sell their product was taken up and discussed.

A. It was.

Q. And if so, what was said and what was done? I would like to have you give, as near as you can recollect, a full statement of just what occurred.

A. At the first one of these meetings, which was in January, 1908, the price was reduced. Business generally was in a very strenuous condition. We had passed through what was probably the crisis of the panic, which culminated in November, I believe, just previously, and finances generally were in bad condition over the country and business had fallen off, and it was generally supposed that prices would drop all around. They had commenced to weaken and drop. Naturally, all manufacturers did not want to have their prices go too far down, and did not want them to drop further than they believed it was right and proper. In other words, they did not want them to get into a panicky condition. But we did reduce prices at that time, at that meeting in January.

Q. How did you go about reducing the prices? What was done?

A. I guess probably every one of us gave our opinion on the matters of prices, the market, and I do not know whether we agreed unanimously that we should reduce prices. Usually there were differences of opinion, whether we would reduce prices or advance prices. We differed as to how much the price should be reduced, or how much it should be advanced. Sometimes we were pretty nearly of the same opinion.

Q. Finally, when you got through, how were you as to an opinion?

A. Well, we even differed then, when we got through, as to the exact figure, but we were pretty nearly unanimous, as a rule; and when we left the meeting, it was understood there would be a decline or an advance within a few days or a week following. It generally took place the very next day, or within two days.

Q. The decline would take place in accordance with the views expressed by the majority of them, would it?

A. Yes, sir.

Q. You had no agreement, as I understand it?

A. No agreement.

Q. You had no written agreement?

A. No agreement.

Q. You had no penalties?

A. No penalties.

Q. Nothing to limit the output?

A. That was at one time talked of, but was never agreed to.

Q. What was never agreed to?

A. About limiting the output.

Q. Limiting the output?

A. Yes.

Q. As a matter of fact, you had no written contract, and you had no penalties?

A. None.

Q. And you had no limitation of output?

A. No, sir.

Q. But you say you did discuss prices and most of you reached a common price, and it was understood that that would be announced?

A. Yes, sir.

Q. What was the understanding—

MR. SEVERANCE: Judge Dickinson, will you excuse me just a moment?

MR. DICKINSON: Yes.

MR. SEVERANCE: We want to enter on the record an objection to that last question, or series of questions, and to make a suggestion that the witness ought not to be led by future questions. It was rather more than a resumé of what the witness said. I want that objection to apply to that long question, I think it was the very last one.

By MR. DICKINSON:

Q. You have spoken of a difference of views, Mr. Follansbee, on prices, and a majority of views, and some not acceding to that view. State what position those who did not agree in opinion as to what the price would be assumed as to what their action would be, if any, as to the selling at those prices.

A. They were willing to go with the majority.

Q. Was that the understanding among you?

A. Yes. I do not recollect that anybody ever went out and said absolutely he would not sell at the figures that most of them thought were proper.

Q. How long were these prices, which were announced in the papers, to be sold at?

A. The papers never announced the prices.

(At the request of Judge Dickinson the stenographer repeated the preceding question.)

MR. DICKINSON: Strike out the reference to the announcement in the papers and read the question again.

(The stenographer read the question as amended as follows):

"Q. How long were these prices that were announced to be sold at?"

By MR. DICKINSON:

Q. How long were these prices to continue?

A. I do not think that at first any definite term was made, but it was to be as long as until some of us would feel —somebody would feel—that a change should be made. Then we would have another meeting and talk over the change and put it up or put it down.

Q. Was the understanding, then, that it was to continue until somebody had a meeting and wanted a change?

A. Yes, sir.

Q. Whereas you were under no legal obligation and under no contract, did you rely upon that being done by others, and did you expect yourself, others to rely upon your doing that?

A. We expected that, but we did not always believe that it would be carried out, because among many manufacturers, conditions differed with some of them, whereby they felt that they would be justified in cutting the price. For instance, if a mill was very dull, and they felt that other mills were not as dull as they, they would probably, and there were evidences that they did, cut the prices to run more of their plant; or maybe some of them might be short of money and they would cut prices to sell some goods.

Q. When you left with the understanding, such as you have described it, and prices were cut, if it came to the knowledge of competitors that it had been done, was anything said or done about that?

A. It would be mentioned in the next meeting.

Q. In what way?

A. Criticism.

Q. Criticism? Then what would be done?

A. Well, assertions and denials.

Q. Would you discuss further the question of prices, and what you would do as to prices?

A. At every meeting we had, there was always the matter of prices in consideration, whether we would maintain the price or lower it or advance it, depending on the condition of the market and the general financial condition and the prices of raw materials. The prices of raw materials entered in every time.

Q. You assembled, did you, in the way you have described?

A. Yes.

Q. You exchanged information in the way you have described?

A. Yes.

Q. And you announced prices in the way you have described?

A. Yes.

Q. And you left with the expectation that you would sell at that price, and relying upon the others, until the next meeting; is that right?

MR. SEVERANCE: That is objected to as leading. That is clearly leading, Judge.

MR. DICKINSON: I think I am restating his evidence. I do not think I have brought out anything new.

MR. SEVERANCE: It does not make it any stronger, does it, to restate it?

MR. DICKINSON: Perhaps not.

By MR. DICKINSON:

Q. How is that, Mr. Follansbee?

A. I do not know that I remember just exactly what you asked.

Q. What was the object of getting together?

A. Getting together at the meetings?

Q. Yes.

A. To consult as to conditions. And it was not only as to prices, but the terms of sales, and other matters than the mere matter of prices.

Q. What effect did these meetings have as to steadying and maintaining prices over certain periods?

A. They had a very good effect as to steadying prices, and they had an excellent effect in keeping the market from going to the bow-wows; which manufacturers were very glad of, as they did not want their business to go to the bow-wows.

Q. Yes; how did they have an effect in keeping it from going to the bow-wows?

A. When there is no consultation between people as to prices—and this might apply to others as well as to manufacturers—men who do not know their costs will be apt to make lower prices than they can afford to make. Where they get together, they talk about costs, and in general consultation they will arrive at the truth. Some men, in figuring, will admit after a general consultation, or it might be after consultation between only one or two, that they have neglected to figure something into their costs; and they find out by consultation with others. We are enabled to run a business in a more business-like way through consultations than without them.

Q. Does it go to the bow-wows because there is cutting of prices and some are selling under the general price; and the more competition there is, as a rule, the greater the number of prices there will be, and there will be more varied prices; and the steadier the prices, the less underselling, is that true?

A. These things depend very much on consultation between manufacturers.

Q. Did you or not go further than merely assembling and exchanging information and declaring a declaration of purpose?

A. No, we did not go any further than that.

Q. In addition to a declaration of purpose, did each one of you declare the same purpose or not?

A. When we left the meeting we practically had come to exactly the same conclusion all around that whatever price

was made, whether it was lowering or advancing, we would sell on those figures.

Q. And did you or not leave with the reliance that that would be done by the others as well as yourself?

A. We understood that it would be. From our knowledge of mankind and our experience of previous years, we knew there might be some who would not stick, but that might be done with anything.

Q. Yes. Would that be a departure, however, from the understanding, if they did not stick?

A. Yes.

Q. If Mr. Campbell made any statement at the first meeting as to its object and purpose, and made any mention of the Gary dinners, or anyone not being invited to them, please state what you recall that he stated in that connection.

A. He made some mention of the gathering in New York of the most prominent iron and steel manufacturers in the country. Whether the term "Gary dinner" was used by him just at that time, I do not know, but I recollect it was mentioned in the meeting by different ones of us, and it was understood that this meeting was following what the large manufacturers of the country had thought was a wise thing to do, to have meetings of the manufacturers in different lines so that none of the general lines, or any one of them, would cut prices to pieces, and the market become in a very miserable condition.

MR. DICKINSON: That is all.

CROSS EXAMINATION,

By MR. REED:

Q. Is it not true, Mr. Follansbee, that a decline in prices in any business always follows a cut in prices by any important producer; that everybody has to meet a general cut?

A. Yes, that is the general rule.

Q. Is it not true, also, that at those meetings which you spoke of, the price at which everybody had sold was the low-

est price at which any important producer announced he was going to sell?

A. Sometimes there was a slight difference of opinion as to how much the price should be reduced, or how much it should be advanced. There might be a difference of opinion of a dollar a ton.

Q. Very true; but if Mr. Campbell announced that the Youngstown Company expected to sell tin plate at $3.25 a box, you knew that that would practically establish the market, if that was a reduction, did you not?

A. Yes. He did not make tin plate, himself; he made sheets.

Q. Well, take any important tin plate producer.

A. Yes.

Q. Take the McKeesport Tin Plate Company, if you will. They could establish the price for the whole industry by announcing that they proposed to make a reduction, and by sticking that out and making it?

A. Yes, that is an unfortunate part of it, sometimes. Sometimes it is a small mill that does that, and breaks the price for the men who know better, down to the common level of the man who does not and has not got the trade.

Q. Was there anything, any obligation, either of honor or general agreement, any obligation of any kind, which prevented any of the tin plate manufacturers from making just such a reduction, either in those meetings or outside of the meetings, provided only that he did it candidly and frankly, and told his competitors that he was doing it?

A. Our company always felt that it was a moral obligation. I think that the other companies did, too. We would make a change in prices, a cut in prices, say, if we found that certain other people were doing it and taking away our customers through cutting the prices; we would cut prices and we would not probably say anything to anybody about it.

Q. But if you took the initiative in cutting the price, you felt a moral obligation to tell your competitors that you were going to do it?

A. We never took the initiative.

Q. You never had occasion, then, to consider it?

A. No. We stuck to the prices as long as we were able. We considered we were under a moral obligation.

Q. At meetings sometimes would you advocate a greater advance?

A. Not a greater advance, that I know of, but we advocated a greater reduction, sometimes, than certain others did. Maybe a majority of those at the meeting would think that that was too much, and we would say "All right; we do not want to be extreme."

Q. But the extent of the obligation was that of dealing frankly with your competitors, was it not?

A. Yes.

Q. Prior to the time you were making your own black plate, did you have any trouble in buying the black plate that you needed?

A. We were very particular where we got our black plate, because we were putting it nearly all into rather high class goods, and we did find difficulty sometimes in getting it from the mill that we formerly had, or the mill that we wanted to get it from.

Q. Was the supply of black plate ever refused to you when you needed it?

A. Not when we were ready to contract; it never was refused.

Q. Is there any trouble in buying black plate at the present day, or has there been recently?

A. I do not know. We sell very little black plate for tinning. We sell it for other uses, stamping or enameling.

Q. It is a fact that the market for black plate is wide open and uncontrolled by anybody?

A. So far as I know.

Q. And it has been for a long time?

A. Yes.

Q. Since you have been manufacturing tin plate, what can you tell us as to the fairness of the competition of the Steel Corporation, as compared with your other competitors?

MR. DICKINSON: I except to that as irrelevant.

By Mr. Reed:

Q. Of course, when I speak of the United States Steel Corporation I mean to refer too to its subsidiary companies, to the American Sheet & Tin Plate Company.

A. Their prices have been more open and above board and publicly announced. Among some of the others, among certain ones of the others, outsiders, we did not have the feeling of confidence that they would maintain their prices. With some outsiders we did have that feeling of confidence. As to the American Tin Plate Company, I should say that their prices were open and above board, and I do not see that they could be criticised as to any variance of prices.

Q. That was not all that I asked you about. Generally speaking, have they resorted to fair methods of competition?

A. They have.

Q. They have competed with you, have they not?

A. Oh, yes.

Q. But their competition has not been of that class which you would term unfair competition, has it?

A. No, sir; it has been particularly fair, for several years.

Q. Have you, at times, had trouble in purchasing block tin?

A. No.

Q. Have you known of times when there was a corner in the tin market abroad, and when it was next to impossible to purchase tin for import?

A. I do not know that I could answer distinctly on that. We do not import block tin; we import some tin plate, although we are manufacturers of tin plate, but we have been buying our block tin in this country. Those who import may run up against that difficulty, somewhat.

Q. There is practically no tin produced in the United States, is there?

A. No, sir.

Q. It is almost all imported?

A. Yes, sir.

Q. And there have been corners at times, in London and Holland, of the tin supply, have there not?

A. There are supposed to be corners going on frequently there, but I do not know of any very great corner for some years.

Q. But the price has fluctuated greatly, has it not?

A. Generally upward.

Q. Generally upward; and at times of very high prices for block tin abroad, have you been able to buy at reasonable prices here, from the United States Steel Corporation or any of its subsidiaries?

A. We have a few times bought from the United States Steel Products Company. We make inquiries of a number of companies when we are in the market, and from brokers too, and get the quality we want at the lowest figure; we do not care who sells it.

MR. REED: That is all.

RE-DIRECT EXAMINATION,

By MR. DICKINSON:

Q. State whether or not at the time the American Tin Plate Company was formed, your company had a contract for black plate with some company.

A. For black plate; yes, sir.

Q. How long did that run?

A. I do not recollect exactly. It started with deliveries early in January.

Q. Of what year?

A. 1899; and we had two contracts, and they were of different amounts and different prices, and they expired I think, at different times. I am not sure of the expiration times.

Q. How long did they run?

A. I do not recollect that. It might have been six months; I cannot recall that.

Q. At any rate, for a period of that time you were supplied under those contracts, were you?

A. They were made by the mills that were in the American Tin Plate Company, but before they went in their contract was observed.

Q. The contract was binding on them?

A. Yes.

Q. When was it you began to make black plate yourself?

A. In September, 1904.

Q. What was your reason for putting up that mill?

A. Business reasons.

Q. Was it or not to insure a supply?

A. Yes. We felt that we could not be so sure of having black plate unless we made it.

Q. Why could you not be so sure?

A. We could not get it so readily. We always managed to get it, but it was not always very readily that we got it.

Q. Where were most of the makers of black plate at that time?

A. They were mostly in the American Tin Plate Company. We wanted to get a quality that we might be sure of that would just suit our purpose.

Before the American Tin Plate Company was formed, we could choose mills from which we would buy black plates. Certain mills, we considered, made better black plate than others. When they all became one organization, we could not be sure of getting it.

Q. Then you got your own?

A. Yes.

Q. You had some difficulty, but you said you got it?

A. We always got it, but we had some difficulty sometimes.

RECROSS EXAMINATION.

By Mr. Reed:

Q. You spoke of having difficulty at times in getting black plate, although you always did get it. Was not the reason it was difficult to get from the American Tin Plate Company

the fact that their own orders and their own requirements were using all their production of black plate?

A. I do not know.

Q. The time when it was most difficult to get was during the time of the greatest activity in the tin plate business, in 1900 to 1901?

A. From 1900 to 1902 or 1903 inclusive.

Q. Mr. Follansbee, is it not a fact that the American Tin Plate Company, after the time that your contracts with their constituent companies expired, were glad to fill your requirements for black plate, and told you that they were?

A. Yes, sir; they filled all the contracts to the letter, according to my recollection.

Q. And expressed themselves, did they not, as being glad to fill your requirements?

A. I do not know anything about any expression, but there was not anything otherwise.

Q. And they continued to sell to you and you continued to buy from them until you built your own mill in West Virginia did you not?

A. Yes, sir; and we have bought some since.

RE-DIRECT EXAMINATION.

By Mr. Dickinson:

Q. They carried out the contracts they had with you, you say?

A. Yes, sir.

Q. How about your getting plate from them after that? Did you have any trouble or delay in getting what you wanted?

A. We got some from them, under certain conditions.

Q. Did you assign any brands to them?

A. Yes.

Q. What were the conditions of assigning those brands?

A. At first they wanted those who would buy from them to give them one hundred per cent of what they bought; afterwards 90 per cent, and afterwards 85 per cent. We wanted some brands of tin plate made by them, and they

wanted to have us restrict those brands to them,—the making of these brands.

Q. What did you do? Did you assign them the brands?

A. We got up two brand names, and assigned those two names to them.

Q. Did you have to enter into a contract?

A. Some sort of an agreement, yes, that if we would buy so much goods the price would be less; that is, if we would bind ourselves up to them on some one of those percentage figures.

Q. How was that agreement carried out on their part?

A. They still owe us something. We bought some plates from them within two years, within two certain years; and after that quarter was ended, I think about the beginning of the next quarter afterwards, they sent us a check,—so much a box off. The thing continued and we still have some contracts left where, for some reason or other, I do not recollect just what, they did not pay the last rebates due us.

Q. You spoke of fair competition. I would like to ask if you consider it fair competition to require the assignment by a competitor of his brands as a condition of furnishing tin plate?

MR. REED: Do you mean a competitor or a customer?

By MR. DICKINSON:

Q. They were competitors in business, were they not?

A. We had a dipping plant in Allegheny before we built this mill in West Virginia.

Q. You were selling tin plate in the market?

A. Yes; we were manufacturing in a small way, comparatively, then.

Q. And you were selling in the same market in which they were selling, were you not?

A. Yes.

Q. Now, answer the question, will you?

A. Well, we did not crave that kind of a contract with anybody. We did not like it. We would have preferred it to have been otherwise.

Q. When you spoke of fair competition, did you refer especially to the maintenance of prices, not cutting prices?

A. When you were speaking about the meetings?

Q. No, no. You were asked on cross examination as to whether or not the United States Steel Corporation had been a fair competitor of yours, and you answered, substantially, that you thought they were. I ask whether or not you referred particularly to the question of the maintenance of prices, and not getting your customers. To what did you refer when you said they had been a fair competitor?

A. I referred to the last five years, nearly.

Q. And in what respect, in those five years?

A. We have been manufacturers of our own stuff in these years, and I refer to them as observing fairly the prices that they enunciate. Whatever they put out as their market prices they stick to.

Q. You did not go back of the five years, in your statement?

A. No.

Q. You confined it to that time?

A. Well, we were buying black plate back in those years to which you refer, the early nineties, and were not making it. When we built a mill we made our own.

MR. DICKINSON: That is all.

MR. REED: I wish to ask a few more questions of Mr. Follansbee in the morning.

(Whereupon, an adjournment was taken until 10:30 o'clock tomorrow, October 2, 1912.)

TWENTY-THIRD DAY.

Room 309 Federal Building,
Pittsburgh, Pennsylvania.

October 2, 1912.

The hearing was resumed at 10:30 o'clock a. m. before SPECIAL EXAMINER HENRY P. BROWN.

Present on behalf of the United States, MR. DICKINSON, MR. COLTON and MR. CORNEAU.

Present on behalf of the defendant, MR. SEVERANCE, MR. BOLLING and MR. REED.

B. G. FOLLANSBEE,

the witness under examination when the adjournment was taken, resumed the stand for

RECROSS EXAMINATION,

By MR. REED

Q. Mr. Follansbee, in your testimony last night, just before the adjournment, you were asked about getting tin plate from the American Tin Plate Company, and you answered:

"We got some from them under certain conditions."

And then Judge Dickinson, immediately after that, asked you the question:

"Did you assign any brands to them"? And you answered: "Yes."

Did you mean to give the impression that the assignment of brands had anything to do with your securing black plate from the American Tin Plate Company?

A. I think it had something to do with getting anything from them, whether it was black plate or other goods.

Q. And so you invented two brands which you assigned to them?

A. Yes.

Q. How about any of your valuable brands that you had established in the market? Did you assign any of them?

A. No.

Q. You kept them?

A. Yes.

Q. And you still have them?

A. Yes.

Q. And the brands that you assigned to the Tin Plate Company had no real value, then, had they?

A. They only had such value as we might have made of them in the future.

Q. They only had a future value?

A. Yes.

Q. That custom of assigning brands did not originate with the American Tin Plate Company, did it?

A. It did, in this country. When brands were instituted by an American for a brand of tin plate and he had that tin plate made abroad, at the mill where it was made they were supposed to be the only mill that could make that brand. But it was not adhered to; and there was no paper signed in regard to it that I ever knew of. We never signed any. We had many brands made abroad for years, when we were importing, before the plates were made in this country, and we never agreed in any way on that point. We have been told that—

MR. DICKINSON: Do not state what you were told.

By MR. REED:

Q. Mr. Follansbee, you explain your answer to me, without giving the direct answer. I want to ask you, in fairness to us, to please answer the question directly. Was there not in Wales, for many years, before tin plate started to be made in this country at all, a general custom of requiring the assignment of the brand by the customer to the manufacturer?

MR. DICKINSON: You are only to answer as to what you know yourself, Mr. Follansbee.

MR. REED: Of course.

MR. DICKINSON: And not from hearsay.

THE WITNESS: That cannot be answered yes or no, because we did not buy direct from the manufacturers. We bought from large commission houses, and we were told by them—

MR. DICKINSON: I object to what he was told.

THE WITNESS: We were told by them—

MR. DICKINSON: I object to that.

MR. SEVERANCE: He can answer, subject to your objection.

MR. DICKINSON: I object to it. I wish my objection entered.

MR. SEVERANCE: Proceed.

THE WITNESS: We simply had to take what was sold us; but we were not bound, in any way. We were not bound to consider the mill that made that plate as the owner of it. No papers ever passed, and there was nothing to show it.

By MR. REED:

Q. I am asking, from your information as an experienced tin plate manufacturer, whether there was not such a custom in Wales. I am not asking what you did.

A. I only know by hearsay. There was some custom, but I do not believe it was adhered to. It may have been. It is merely report that we had on it.

Q. When did you make your assignments of brands to the American Tin Plate Company? In what year?

A. In the spring of 1903.

Q. How do you reconcile that statement, sir, with the statement which you made a few minutes ago that you could not get black plate until you made the assignment of brands, when you had been buying black plate from the Tin Plate Company continuously from January, 1898, until that time?

A. In this way: we were told, at different times, that the American Tin Plate Company did not want any more competition, and the reason given us why they did not pay these rebates that are still due us is because we were building a mill.

Q. And that is your explanation, is it, of your statement that you could not buy black plate without assigning brands to them?

A. No sir; I do not say that as to the black plate.

Q. That is what I asked you.

A. But I say that we were told, at different times, that these things might be affected. When we went into the market to buy, we succeeded in buying.

Q. I remember that about five minutes ago you told us that you could not buy black plate until you made an assignment of these two brands to the American Tin Plate Company.

A. I do not think it reads just that way.

Q. If it does read that way that is incorrect, is it?

A. Yes. The black plate question was not in consideration at the time we assigned these two brands. They were separate and apart.

Q. That is just what I tried to bring out a little while ago. Your supply of black plate was not conditioned on your assigning any brands to the Tin Plate Company, was it?

A. I do not recollect whether that question was brought up or not at that time; but these papers that we signed when we transferred those brands I think made no mention of black plate at all. My recollection is clear that they mentioned the coated manufactured plate.

Q. In any event, for four or five years before you made those assignments, you bought black plate whenever you wanted it, from the Tin Plate Company.

A. It was not so long before that.

Q. From January, 1899 until sometime during the year 1903?

A. Yes, sir; it may have been about that long.

Q. Was it not about that long?

A. Yes. We had contracts that we signed up in 1898 that carried us along pretty well on through 1899; and then, after that, we were contracting up until into 1903.

Q. Yes. That is all.

A. I want to be sure that what I stated yesterday as to the price made at the meeting of January 8, 1908, was a reduced price, and not an advance. I notice the Gazette Times represents me as saying that the price was advanced in January, 1908. It was not. I testified that it was reduced. I think that is just a mistake of the newspaper, and not of the record here.

MR. DICKINSON: The stenographic record is no doubt correct. If it is not, it will be corrected.

RE-DIRECT EXAMINATION.

By MR. DICKINSON:

Q. You were asked as to a custom in Wales of assigning brands, and whether that had prevailed there before it prevailed in this country. I will ask you, whether it was invented in Wales or whether it was invented in this country, what the effect as practiced by the American Tin Plate Company under such contracts as you have spoken of, was, as to tying to them the customers who made tin plate.

A. The custom, if there was such a custom—I cannot be absolutely sure that there was—did not bother us any. It did not have a deterring effect that would amount to a pinch of snuff in Wales.

Q. I am not asking you as to its bothering you, but what would be the effect of such a custom practiced by a company like the American Tin Plate Company, of furnishing black plate on condition that brands were assigned to them by those customers who took the black plate?

MR. REED: That is objected to as speculative, for the reason that the inquiry ought to be what the effect was, instead of what the effect might have been.

By MR. DICKINSON:

Q. Answer the question.

A. The custom in this country had more of a deterring effect with us than the custom in Wales.

By Mr. Dickinson:

Q. If the American Tin Plate Company, as a condition for making plate for customers, required the assignment to them of brands of those customers, what effect, if any, would that have upon their competitors in the way of tying up these customers and taking them out of the market?

Mr. Reed: That is objected to as speculative. It is objected to further because the witness can testify only as to his own experience, and he already has testified fully as to that.

Mr. Dickinson: The witness has been in business long enough, I think, to give an opinion on that subject.

A. It had a moral deterrent effect, and in some cases a practical deterrent effect.

By Mr. Dickinson:

Q. Would it operate, or not, to take such people out of the market and away from their competitors?

Mr. Severance: I object to that as leading.

Mr. Dickinson: I said "or not."

Mr. Severance: I heard you.

Mr. Reed: The objection stands.

By Mr. Dickinson:

Q. (Continuing). I am just speaking of a general proposition of opinion, not in regard to yourself.

A. I could probably answer it more clearly this way: The Follansbee Brothers as individuals were not afraid of those things to the degree that some of the stockholders were, who were very much afraid about it.

Q. That is hardly an answer. I will ask the stenographer to read the question.

(The first question was read by the stenographer as follows:)

"Q. Would it operate or not to take such people out of the market and away from their competitors?"

A. It operated against competition.

RECROSS EXAMINATION,

By Mr. Reed:

Q. In spite of the fact that it operated against competition, you went ahead and built a tin mill and steel works, did you not?

A. Yes.

Q. The Phillips Company went ahead and built three very large ones, did it not?

A. They built two, and bought one.

Q. The McKeesport Company built a very large one, did it not?

A. Yes.

Q. Jones & Laughlin built a large one, did they not?

A. Yes.

Q. A great many companies that you heard mentioned here yesterday built or bought large plants?

A. Yes.

Q. And in spite of the fact that the American Sheet & Tin Plate Company's capacity has very greatly increased in the last ten years, its percentage of the output of the country and of the productive capacity of the country has steadily shrunk, has it not?

A. Yes.

Q. And yet you think that those two devices that you speak of, the assignment of brands and the conditional credit have operated to restrict competition?

A. They did operate at that time. During Mr. Pargny's presidency of the American Tin Plate Company, matters have been more pleasant.

Q. How long has Mr. Pargny been president?

A. I do not know; two or three years, I believe.

Q. Prior to his presidency the percentage of the capacity

of the country controlled by the American Tin Plate Company shrunk just the same, did it not?

A. It shrunk some.

MR. REED: That is all.

REDIRECT EXAMINATION.

By MR. DICKINSON:

Q. Mr. Follansbee, you have been asked about a number of tin mills being built, and others being enlarged, after the formation of the American Tin Plate Company. I will ask you whether the prices after the formation of the American Tin Plate Company, of tin plate, were increased or not.

A. On January 1, 1899, they went in operation. Prices increased then; but all prices on iron and steel products and tin plate increased very heavily from January, 1899, on into the fall of the year. It was a sort of a boom year.

Q. But the fact is that after the formation of the American Tin Plate Company, the market price of American Tin Plate increased, did it?

A. Yes.

Q. What effect, if any, did that have upon the establishment of new mills?

A. I think that whenever prices advance on any article and stay higher for a number of months, there is more desire for capitalists or business men to build plants and to get some good out of such prices, hoping that they may last. That is a tendency in all manufacturing business.

Q. If there is a combination of competing plants, followed by a rise of the prices of the products which are made by such plants, state whether or not those conditions are fertile ones for producing competition and encouraging others to become competitors and to go into the field.

A. I have found, as a very general rule, that when prices advance in any manufactured article, there are apt to be new mills built, because of the great advance.

MR. DICKINSON: That is all.

By MR. SEVERANCE:

Q. That increases competition, does it not?

A. Yes.

MR. SEVERANCE: That is all.

JAMES ANSON CAMPBELL,

a witness called by and on behalf of the United States, having been first duly sworn, testified as follows:

DIRECT EXAMINATION,

By MR. DICKINSON:

Q. Where do you live?

A. Youngstown, Ohio.

Q. In what business are you now engaged?

A. In the Steel business.

Q. In connection with what company?

A. The Youngstown Sheet & Tube Company.

Q. What position do you hold with that Company?

A. President.

Q. How long have you held that position?

A. Seven or eight years.

Q. Prior to that time did you hold any other position with that company?

A. Yes, sir.

Q. What position?

A. Vice-president.

Q. For how long a period?

A. For about two and a half years or three years.

Q. How long have you been in the steel sheet business?

A. With this company?

Q. Yes.

A. Our company was organized, I think, in the fall of 1900. We began erecting our plant the first of April, 1901.

Q. Prior to that time had you been in any line of iron or steel business?

A. Yes sir; since January 15, 1890.

Q. What concerns were you with prior to your association with the Youngstown Sheet & Tube Company?

A. I was first with the Trumbull Rolling Mill Company at Warren, Ohio; and then with the Pomeroy Rolling Mill Company, which was owned by the Union Iron & Steel Company at Pomeroy, Ohio; and then with the Mahoning Valley Iron Company, at Youngstown, Ohio; and after that company was taken over by the Republic Iron & Steel Company I was district manager for that company about two and one-half years.

Q. With the Republic Iron and Steel Company?

A. Yes.

Q. What department were you in with that company?

A. I had charge of the Brown-Bonnell Plant, the Andrews Plant, the Mahoning Valley Works and the Buhl Works, at Sharon, Pennsylvania.

Q. State whether or not you attended a dinner in New York, in November, 1907, given by Mr. Gary, or in connection with him, commonly known as the Gary dinner.

A. I did.

Q. Do you know anything about whether, following that dinner, any committees, such as a general committee, or sub committees, were appointed?

A. I think there was a general committee appointed.

Q. Do you know who was on that committee; can you mention some of the names?

A. I would not say positively who the members of that committee were, but I think Mr. Willis L. King, and Mr. Clark, President of the Lackawanna Steel Company, and I think Mr. Topping, President of the Republic, and I think Mr. Schwab were there.

Q. State whether or not any subcommittees, under that general committee were appointed, and if so, by whom they were appointed?

A. There were subcommittees appointed. I am of the opinion, although I could not state positively, that a general committee of five or seven made the appointments.

Q. Were you appointed on any of those subcommittees, and, if so, which of them?

A. I was on the Sheet & Tin Plate Committee, the Billet & Sheet Bar Committee, and the Tubular Goods Committee.

Q. Pipes and tubular goods, was it?

A. Pipes and tubular goods.

Q. What other members besides yourself, so far as you can recall, were on the committee on billets and sheet bars?

A. I think Mr. Dinkey and Mr. Topping and Mr. Clark were among the number.

Q. Do you know who the Chairman of that committee was?

A. No; I do not remember.

Q. Do you recall whether or not Mr. Topping was chairman?

A. I think not. My opinion is that Mr. Topping was Chairman of the Steel Bar Committee.

Q. Take the committee on pipes and tubular goods. Besides yourself who were members of that committee, so far as you recall?

A. I think Mr. W. B. Schiller.

Q. Of what concern was he?

A. The National Tube Company.

Q. Who else?

A. Mr. C. R. Hubbard, of the Wheeling Steel & Iron Company; Isaac M. Scott, of the La Belle Works, and myself. I think there were only five.

Q. Do you recall whether Mr. F. C. Smink was on the committee?

A. Yes; he was. That was Mr. Smink of the Reading Iron Company. I may be mistaken about some of the names I have given.

Q. But you are giving them to the best of your recollection?

A. Yes.

Q. Take the committee on sheet and tin plate. Besides yourself whom do you recall as members of that committee?

A. Mr. Isaac M. Scott and Mr. C. W. Bray.

Q. How about Charles Hart; do you recall whether he was a member of that committee?

A. I think he was. Mr. Hart of the Inland Iron & Steel Company.

Q. How about Thomas K. Neidringhaus?

A. Yes; I think he was a member.

Q. Who invited you to the Gary Dinner?

A. Judge Gary, I think.

Q. What did you understand to be the purpose of that meeting and the appointment of those committees?

MR. BOLLING: Objected to on the ground that it is calling for a conclusion from the witness. He can testify only as to the fact.

MR. DICKINSON: Maybe he will show his grounds for answering. You can enter the objection, of course.

MR. BOLLING: Will you not ask him whether or not he had any conversation of that kind? You clearly do not want to put the question in the form you have put it——

MR. DICKINSON: I am much obliged to you for the suggestion.

By MR. DICKINSON:

Q. Did you have any conversation with anyone who attended these dinners as to the object and purpose of these dinners and of the appointment of these various committees?

A. I could not answer that all in one question, because the invitation to the dinner, of course, was sent long before the committees were appointed.

Q. Take them up in order——

A. I probably did have conversations. I do not remember any particular conversation, however, with people in the steel business with reference to the object of the meeting. I did not know anything about the object of the meeting until after the meeting was over.

Q. Well, after the meeting was over what did you learn about the object, and what was it, and in what way did you learn it?

A. The impression given me by the speech of Judge Gary at the dinner was that it was to bring together the manufacturers of iron and steel with a view of making for stability of prices during the panic. The money panic had just started in New York.

Q. What did you understand to be the object of these sub-committees?

A. The same purpose—to carry on the work.

Q. State whether or not the object of the committee was to come in contact with the producers generally in those lines of business.

A. Yes, sir; that was the object of the meeting—to bring them together, that they would become better acquainted and exchange information.

Q. Was the appointment of the sub-committees one of the methods of carrying out that purpose?

A. I presume it was.

Q. You were a member of several of those committees?

A. I was a member of the committee, but I had no instructions.

Q. No instructions? State whether or not shortly after the Gary dinner there was a meeting held in Pittsburgh of the manufacturers of tin plate and sheet steel at which you were present.

A. Yes, sir; I was present at a meeting shortly after that dinner. I do not know just how long after the dinner it was.

Q. Who called that meeting?

A. I think originally Mr. Scott was Chairman of the Sheet & Tin Plate Committee, and I presume he called the meeting. I do not remember now, however.

Q. Did you succeed Mr. Scott?

A. Yes.

Q. State whether or not that meeting was an outgrowth of the appointment of those subcommittees and the general plan of procedure growing out of that dinner.

A. Yes, sir.

Q. At this first meeting you say the tin plate and the sheet steel people were there together?

A. Yes, sir.

Q. How many of those engaged in those lines of manufacture were at those meetings? I mean in point of representation and volume of production?

A. I would say that there were ninety per cent.

Q. Ninety per cent of each or 90 per cent of the tin plate and of the sheet steel people, both of them?

A. I am not familiar enough with the tin plate to say.

Q. But you are speaking of the sheet steel?

A. Speaking generally of the sheet steel, I would say 90 per cent.

Q. Can you recall what tin plate manufacturers were represented at that meeting, and by whom, so far as your memory goes?

A. I think the American Sheet & Tin Plate Company was represented by Mr. Bray, and perhaps by Mr. Andrews; or perhaps by Mr. Bray and Mr. Pargny, at that meeting. He was then the sales manager, I think. I think Mr. Crawford, of the McKeesport Tin Plate Company; and there were several others, but I could not state positively just who they were.

Q. You do not recall them now by name?

A. I think the Cannonsburg people were represented, and some others; several mills in addition to the ones I have mentioned were represented. I cannot recall the tin plate people, because I am not as familiar with them as I am with the sheet people.

Q. Mr. Campbell, in respect of prices, what was the object of those meetings?

A. I do not know what other people understood, who attended the meetings, but my understanding was, and my efforts were in the direction of making for stable prices; doing every thing that we could to have the different people maintain a stable price on their product, in order to protect the jobber and the consumer and manufacturer during that strenuous period.

Q. Tell us what took place at those meetings, so far as the consideration of prices was concerned, and so far as any understanding was concerned, if there was any, in regard to prices?

A. As a rule, when the meetings were called to order each gentleman was asked to state the volume of his business in percentage, the amount that he was operating his mill—whether fifty or seventy-five or ninety per cent, and

how the business conditions were in that line with him; and how he understood the market price was being maintained.

Q. What do you understand by "market price being maintained"?

A. There is an understanding in the trade, as a rule, now-a-days—

Q. I am not speaking of "now-a-days", I am speaking of that time.

A. At that time, even, the practice of the subsidiary companies of the Steel Corporation—I am speaking with reference to sheets—was this: The American Sheet & Tin Plate Company, when they make a price on their products, it is usually published, or we get it from our customer, or we get it from them direct, as to what that price is; and that is considered by nearly everybody as being the ruling price. The other manufacturers of sheets may have a price, but when they refer to the market price it is usually understood to be the price of the American Sheet & Tin Plate Company. So that that has been the standard, as far as my knowledge goes, of prices, because their prices are published, and we all know what the price is. The smaller dealers may have one price today and another tomorrow. The small dealer is ready to meet conditions at almost any time, or to take business according to his order book, whether he needs it or whether he does not. If he does not need it, the price is probably as high as that of the American Sheet & Tin Plate Company. If he does need it, the price is a dollar or two dollars a ton less.

Q. When you speak, then, of maintaining prices, you mean the conference was as to making the prices as published by the subsidiaries of the United States Steel Corporation in their respective lines?

A. It was their prices, but it was the prices that were being maintained pretty universally by the other manufacturers in that line.

Q. You mean the same as that of the Steel Corporation subsidiaries?

A. Yes sir.

Q. Then you discussed the question of the maintenance

of prices, the market price, and by that you mean the prices as published by the subsidiaries of the United States Steel Corporation?

A. It was the same price as published by them. It was what we considered the market price.

Q. What would you do in this matter of discussing prices? Just state what took place there.

A. We discussed the prices. When I was chairman of the meetings, I would usually ask the people to state whether they thought the price was too high, or whether it should be reduced, or whether the volume of business was sufficient to justify the present ruling price, or whether they felt that a larger volume of business would come about if there was a reduction of one or two or more dollars a ton in price.

Q. You discussed under that head the general conditions, did you?

A. Yes, sir.

Q. What did you do, if anything, as to a general understanding before you left as to the prices at which the respective representatives there and the concerns they represented would sell?

A. After the discussion took place as to the prices, when I acted as chairman of the meeting, and I found that a majority of the people present representing the different mills were in favor of maintaining the then ruling market price, I called on each one to state what their policy would be in the future with reference to the sale of their products and with reference to the price.

Q. Would they make statements?

A. I always made the statement to them, at every meeting—it was one of the things that I did not forget,—that there could be no agreements among us; so that that was thoroughly understood.

Q. You understood, and announced, that you could not lawfully enter into any agreement? What kind of an agreement do you mean? A written agreement?

A. No verbal or written agreement; we understood that we could not agree there to make a price.

Q. You had no positive agreement, you say?

A. We had no agreement whatever.

Q. You had no penalties?

A. No penalties, no restrictions as to production.

Q. You had no restriction as to the output?

A. No sir.

Q. Did you or not, before you left, reach an understanding as to whether the price would be maintained? If so, for what period?

A. At most of the meetings we had, I think, a general understanding; that is, we had the statement of the different representatives that their policy would be to market their product at the then prevailing price until they notified their competitors that they wanted to change their price. At some of the meetings, however, that statement was not made by all the people. Some of them said that their order books were in such condition, and they had such a small proportion of business, and other people had been cutting the prices, that they felt justified in meeting conditions as they found them from day to day.

Q. At some of the meetings, then, as I understand you, they did reach an understanding as to what their policy would be in regard to price?

A. I reached an understanding. I cannot say what the other people did. The statements were made generally, at some of the meetings, by all of the people present in fact, that their policy was going to be in the future to sell their product at the then ruling market price.

Q. At the then ruling market price?

A. Yes—which they never did.

Q. What do you mean by "policy"?

A. The policy of conducting their business.

Q. Do you mean, or not, by "policy", that the announcement was that, until they changed they would sell their goods at the market price?

A. No; that it was the policy in conducting their business. We all have a business policy.

Q. I understand; but what did they mean by "policy" so far as it affected prices; so far as it related to prices?

Did it mean the policy as to the amount or price at which they would sell, or not?

A. No; they did not state what tonnage they would sell.

Q. I am not speaking of tonnage, but at what prices?

A. They stated plainly that it would be their policy to market their product until they gave notice to the contrary, at the then prevailing market price.

Q. And that is what you mean by "policy"; that is, their purpose?

A. Their purpose, yes.

Q. You say that they did not observe that. Do you mean to say that none of them observed it?

A. Yes; I think the majority of them observed it. All of the large concerns. But about forty per cent.—

Q. Some of them, you say, did not?

A. Some of them did not; no, sir.

Q. Did you make an announcement of what the policy of your company would be?

A. Yes sir; I have.

Q. How long was that policy to continue; until another meeting?

A. Until the next meeting, or until I notified my competitors. That is my understanding of it.

Q. When you notified them, state whether or not another meeting would be called?

A. No. My intention, as chairman, was to call a meeting about every thirty days. The meetings were not called at any specific time, with reference to anything, but it depended pretty largely upon conditions. My object was to bring the people together and get acquainted and have them air their troubles. Some of them were complaining because the other people were cutting the price, and we liked to have the man have an opportunity, if he wanted to, to make any explanation.

Q. So there were complaints after these meetings of some of those who had made announcements cutting prices; and then you would get together for the purpose of letting them explain, if they could, why they had done so? Is that correct?

A. We gave them an opportunity.

Q. You gave them an opportunity of doing so?

A. Yes.

Q. When you announced the price, what your policy would be as to the price, did you expect the others to rely upon the announcement that you would observe it?

MR. SEVERANCE: I object to that.

THE WITNESS: I did.

By MR. DICKINSON:

Q. When those in whom you had confidence made similar announcements, did you leave with the understanding and reliance that they would pursue that policy until there was another meeting?

A. I did, yes.

Q. When some of those who had made such announcements were found out, or were supposed to have sold at a lower price, what would take place at the next meeting in respect to that? How would it come up; and just how would the matter be treated?

A. Somebody would, perhaps, state that somebody was selling their product at a lower price than the prevailing price, and, as chairman, as a rule, I asked them whether that was true or not; and they would probably say it was, or that it was not.

Q. Then what would they do as to the future action?

A. That would come out in the discussion, and it would be decided; sometimes they made the statement that their policy would be to continue to sell at the market price; or they might say that the volume of their business did not justify them in continuing, and they would have to meet conditions as they found them.

Q. If they made the announcement that their future policy would be to sell at the market price, state whether or not then you would adjourn relying upon that, until some new development?

A. We adjourned. We did not always rely upon it.

Q. It depended upon the personality of the man, largely, did it?

A. We had no control over them; did not expect to have. In the case of some people it was necessary to cut the price; their financial condition justified it; and we did not blame them for doing it.

Q. What character of explanation would be made? Just state the kind of explanations, if you recall them, when these questions would come up of having cut prices.

A. I think the common explanation was that their salesman had made a mistake in a freight rate, or that they had made a mistake themselves, or that the salesman had made a mistake, or something like that.

Q. So the common explanation was that the departure had been made by mistake, and not by intent?

A. Yes. A great many mistakes were made.

Q. You assembled at these meetings, did you?

A. Yes, sir.

Q. Those engaged in the manufacture of the lines of which you have spoken?

A. Most of them.

Q. Did you exchange information there?

A. Yes, sir.

Q. And there was a declaration of their purpose as to their policy?

A. As a rule that was made before we adjourned.

Q. And with the mutual understanding that that would continue until the next meeting?

A. I do not know whether it was a mutual understanding——

Mr. Severance: Judge, he has not said that.

By Mr. Dickinson:

Q. What did you understand?

A. I could not tell what the other people understood. My understanding was that it would be maintained until the next meeting.

Q. I have asked you mainly about the meeting of the tin and sheet steel makers, and then of the subsequent meetings of the sheet steel makers where you presided. Now I will

ask you about the meetings of the tube manufacturers. Did they have any meetings?

A. Yes, sir. They had less meetings.

Q. They had fewer meetings than the others?

A. Yes, sir.

Q. State, Mr. Campbell, whether or not in substance the same things transpired at those meetings as you have described as transpiring at the tin and the sheet steel meetings; or, if there were any variations or any features substantially different, just explain them. I put the question in that way to save time.

A. Practically the same. The meetings were all conducted about on the same basis. I think the object of the meetings was for a similar purpose, as far as I understood it. There were discussions with reference to gauges in sheets, and prices, and so forth. There were discussions with reference to different kinds of materials, such as casing and dry pipe, and one thing and another, with the tube people.

Q. Would the same thing apply as to the billet people?

A. Yes, sir; except that a billet is a billet. There is only one kind.

Q. Billets and sheet bars?

A. Yes. That was confined to prices almost exclusively.

Q. In respect to prices, state whether or not the same thing transpired, in substance, as you have described in respect to the other?

A. About the same. There never was any agreement with reference to billets or sheet bars. It was always understood that it would be illegal to have any agreement. There was only discussion as to what the volume of business would justify in the way of price; whether the price ought to be increased, or whether it ought to be reduced; and a general experience meeting as to what the volume of business was and how prices were being maintained, and so forth.

Q. Experience refers to the past?

A. Yes.

Q. How about your policy as to the future, at these billet meetings? Was that declared in the same way?

A. Yes; after they stated their experience in the past.

It was all based on their experience in the past, as to what they would do in the future.

Q. Were the same character of announcements made, and was there the same understanding on your part?

A. Yes.

Q. And the same kind of reliance you have explained as to the others?

A. Yes.

Q. What was the effect of these meetings generally upon the maintaining of prices?

A. I think the effect accomplished the purpose that we were all after at that time, of making for stable prices; which I think protected the jobber and the manufacturer and consumer and prevented the biggest panic this country would ever have known if it had not been for the stability of prices that was maintained by the meetings of the manufacturers in getting together and getting better acquainted and having these discussions.

Q. Mr. Campbell, after these meetings, state whether or not you would come in contact or association with any members of the general committee, and if so whether you discussed and explained what had transpired at these meetings, or whether they knew what was going on at these meetings.

A. I think they knew, and in a general way I think possibly at some meetings in New York the Chairmen of the different committees did state about the prevailing conditions in the trade.

Q. Did or did not those who were on the general committee in their lines of business have representatives who attended various of these meetings?

A. Yes. They were all representatives of some large steel companies.

Q. When did these meetings come to an end, Mr. Campbell?

A. I could not say definitely. I think, however, sometime during 1911.

Q. Who was the chairman at the tube meeting?

A. Mr. W. B. Schiller.

Q. And at that on billets?

A. I do not remember. My recollection is that Mr. A. P. Dinkey was the chairman, but I would not be positive about that. We had very few meetings.

Q. How did you get your designation, or in what way did you get information that led you to act as chairman of these meetings?

A. I really do not remember how I got that. My impression was that Mr. Scott was originally made chairman of the sheet and tin plate committee, and I have an impression that he asked that I be made chairman, but who sanctioned that I do not know; whether it was the sheet and tin plate people themselves, or how it came about, I do not remember. I never had any official notification, that I know of.

Q. Do you or the Youngstown Sheet & Tube Company own or buy its ores?

A. It owns some ores and buys some ores.

Q. What proportion, about, of ores used in its works does it buy, and what proportion does it bring from its own holdings?

A. Before last year we produced as much ore as we used, but we sold considerable of our ore and bought other ore in order to make the proper mixtures that we wanted. But at the present time we are using about twice as much ore as we mine, each year.

Q. From what sources do you get the ore that you use?

A. We get it from the Lake Superior mines, from the different owners.

Q. Can you mention now some of those from whom you purchase or have been purchasing?

A. Yes. W. P. Snyder & Company—or, I guess it is, the Shenango Ore Company; Pickands, Mather & Company, who act as sales agents for a number of different mine owners; M. A. Hanna & Company, who act as sales agent for a number of different mine owners; and from some other people.

Q. Does your company own ore?

A. Yes, sir.

Q. Where is it located?

A. On the Mesabi Range, Minnesota.

Q. On what lines of railroad is it located?

A. I think some of it on the Chicago & North Western, and some of it on the Duluth & Missabe, and the other road there.

Q. The Great Northern?

A. I am not sure about just what railroads do connect with our mines.

Q. State whether any of it is located on either one or both of the railroads of the United States Steel Corporation.

A. Yes.

Q. The Duluth, Missabe & Northern, or the Duluth & Iron Range?

A. Yes, sir.

Q. Have you any mines that are tributary exclusively to either one or the other of those roads, and not to any other railroad?

A. I think we have.

Q. Are the prices maintained for hauling ore from the ore beds to the Lake Superior ports the same on all the railroads that serve that territory?

A. That is my understanding.

Q. When did you acquire your ores—your company?

A. I think about 1903; and some since that. But the principal ore deposits were acquired about 1903.

Q. Those that you acquired about 1903, state whether you acquired them on a royalty, or whether you purchased them outright.

A. Both.

Q. Both?

A. We paid certain bonuses and certain royalties; bonuses for exploration work that had already been done, I presume.

Q. You mean to say that you bought the land, or that you bought the leases and paid a bonus for the leases?

A. We bought the leases.

Q. You paid a bonus for the leases?

A. Yes, sir.

Q. What was the royalty under those leases?

A. I think under those leases the royalty was twenty-five and thirty cents; that is my recollection.

Q. What bonuses did you pay for those leases?

A. I could not say. There were several different properties. I think the largest property we paid $150,000 bonus for. I would not be positive about that.

Q. That is your recollection about that?

A. Yes.

Q. What was the estimated tonnage of the ore in that property which you got at a royalty of twenty-five or thirty cents a ton bonus, and upon a bonus, as you recollect, of $150,000?

A. I think the largest property was about 6,000,000 tons.

Q. About 6,000,000 tons?

A. Of which we own 60 per cent.

Q. You own 60 per cent of it?

A. It was taken over by the Crete Mining Company, of which we own 60 per cent of the stock.

Q. Was that $150,000 paid for the whole mine, or your 60 per cent?

A. Yes, the whole mine. The other properties were varying amounts, which I do not remember; and I am not real positive about this, but that is my recollection.

Q. In the production of iron, and the products of iron, state whether or not the question of transportation enters largely or not into the cost of the product.

A. It does.

Q. A man in the business that you have described, in the position that you hold and with the experience that you have, state whether or not in running a business of that character it is a part of your business to study and to know as well as you can the question of transportation cost and the reasonableness of transportation cost.

A. It is, in a general way. Of course I do not give the details very much attention. We have a traffic manager who goes into those matters and who looks after the rates, and sometimes they are brought to my attention, about inequalities that he thinks exist, and we take them up with the different railroads and try to have them straightened out; and then there are other things, the larger things like the freight on our raw materials, which are always a serious matter with

us, particularly the freight on our ore and coal and coke and limestone.

Q. That being a serious matter in the cost of your product, state whether or not it is in the line of or part of your duty to study those questions and give consideration to them.

A. It is.

Q. And to arrive, as best you can, at a judgment on those questions.

A. Well, I will not say that we try to arrive at a judgment. We always have our opinion as to them.

Q. You make a distinction between judgment and opinion? I will say "opinion," then.

A. Our judgment may not be very good.

Q. Well, that is so. What was the rate up to within something over a year ago which was charged by the roads controlled by the United States Steel Corporation in the Lake Superior region, in the Mesabi country there, and by the other railroads there, on ore from the ore mines to the Lake Superior ports?

A. Eighty cents.

Q. That rate was reduced, was it?

A. It was reduced at the opening of navigation this year.

Q. It was reduced to what?

A. Sixty cents.

Q. Sixty cents. Your company was organized and began operations when?

A. It began operations in February, 1902.

Q. Then from 1902 down to a year ago, what rate did you pay for the transportation of your ore from the ore mines down to the Lake Superior ports?

A. We did not have any blast furnaces, I think, in 1902. I think we acquired a blast furnace in Sharpesville in 1903.

Q. Then from 1903 down to the change that you are speaking of, what rate did you pay?

A. My understanding was that we paid eighty cents.

Q. Throughout that whole period?

A. Yes, sir. That payment, however, was made by our agent, who brought down our ore.

Q. It was in the operation of your company?

A. Yes.

Q. You are the president of the company, and you are generally acquainted, are you not, with the details of the affairs of the company?

A. Yes

Q. State whether or not your company, during that period, sold in the market in competition with any of the subsidiary companies of the United States Steel Corporation.

A. We sold our finished product, you mean? Do you mean sold ore or steel?

Q. No, sold your product.

A. Yes, we have always sold our product in competition with them. The Steel Corporation were in operation at the time we started our plant.

Q. Assuming, hypothetically, and not stating it as a fact, that the rate of eighty cents from the ore mines to the Lake Superior ports was an excessive and unjust rate, how did that operate, if in any way, to your advantage or disadvantage as a competitor of the United States Steel Corporation's subsidiaries, owing to the fact of their owning the roads over which this ore was hauled?

MR. BOLLING: That is objected to as calling for an opinion on a hypothetical question, from a non-expert witness. Will you let me have read again the last part of your question, Judge?

(The stenographer repeated the last question.)

MR. BOLLING: I assume you will let me ask the witness some questions, to see if he is or not an expert witness?

MR. DICKINSON: You can ask him anything you want to.

By MR. BOLLING:

Q. Mr. Campbell, you are not the owner of a railroad, are you?

A. No, sir.

Q. Have you ever been an officer of a railroad?

A. No, sir. I have been a director.

Q. Of what railroad?

A. The Baltimore & Ohio, and I am a director of the Erie—I think it is the old road, not the Erie, but the——

Q. (Interposing) Have you ever, as director of either of those railroads or otherwise, made any technical study of the cost of transportation?

A. I have not. You say "otherwise". I have made some study of transportation, yes, with reference to coal and coke and ore.

Q. Have you made any study of what it costs to load a ton of ore on the cars?

A. What it costs? I know what it costs to load it on the cars at a great many places, at the Mesabi Range, from actual experience in mining. I know something about the cost of taking it out and loading it on the cars for lower lake ports.

Q. Have you made any study of what it costs to haul it, per mile per ton, from the Mesabi Range?

A. Have I made any study of that? I have, yes.

MR. DICKINSON: Now please answer the question.

A. What was the question?

Q. Assuming hypothetically and not stating it as a fact, that the rate of eighty cents from the ore mines to the Lake Superior ports was an excessive and unjust rate, how did that operate, if in any way, to your advantage or disadvantage as a competitor of the United States Steel Corporation's subsidiaries, owing to the fact of their owning the roads over which this ore was hauled; how did it operate to your advantage or disadvantage as a competitor of any of the subsidiaries of the United States Steel Corporation, taking into consideration the fact of the Steel Corporation controlling the Duluth & Iron Range Road and the Duluth, Mesabe & Northern Railroad Company?

MR. BOLLING: I would like to record one further objection.

MR. DICKINSON: All right.

MR. BOLLING: This evidence is irrelevant to any of the issues in this case.

MR. DICKINSON: Put that down, and now answer the question.

THE WITNESS: It would operate to our disadvantage.

By Mr. Dickinson:

Q. Explain, Mr. Campbell, how it would operate to your disadvantage.

A. The profits that accrue to them in hauling our ore, which would mean about three tons of ore to a ton of steel product, would go to the Steel Corporation if they owned the road and would strengthen their position and weaken ours. The more excessive the rate, the greater disadvantage we would be at.

Q. That would put you at a disadvantage in the market by making your product cost relatively more?

A. Yes, sir.

Q. Now, Mr. Campbell, state whether or not in your judgment during that period eighty cents was a just or an excessive rate, and, if so, what in your judgment would have been a fair and proper rate.

Mr. Bolling: Objected to on the ground of calling for an opinion from a witness not qualified.

Mr. Dickinson: You qualified him very well.

The Witness: Shall I answer it?

Mr. Dickinson: Yes, answer it.

A. I think the rate was excessive during that time.

By Mr. Dickinson:

Q. To what extent?

A. You mean to say what I think would have been a reasonable rate?

Q. Yes.

A. I think all the conditions considered, the grades, and so forth, that forty-five cents would have been a profitable rate to the railroads. I do not mean to say that their rate was excessive, as compared with the rates of other railroads in other lines and other commodities. For instance, I think the rate on coke from the Connellsville field to the Mahoning Valley of 1.35 for 134 miles is fully as excessive as the rate on ore was at eighty cents.

Q. But in your opinion the rate was 35 cents a ton too high?

A. Yes, sir.

Q. How many tons did it take to make a ton of iron, how many tons of ore did it require?

A. It takes about two tons of ore, as the ore runs today—it does not yield much over fifty per cent of metallic iron—to make a ton of pig iron, and about three tons of ore to make a ton of steel product.

Q. Then, just give, in figures, if the rate you have named was a fair and just one, what advantage they got by reason of this excess of thirty-five cents a ton on ore.

A. It would be three times thirty-five cents on each ton of product.

Q. That would be what you would pay them in excess, would it?

A. It would be what we would pay them in excess, if my rate be a reasonable one.

Q. You would be paying in excess that much, and you would be paying it into their pocket, would you?

A. Yes, sir, and taking it out of our pocket.

Q. Then what would be the extent of the disadvantage that you would suffer that way?

A. I will leave that for the mathematician.

Q. Very well; we will work that out. Do you know the rate charged from Conneaut to Pittsburgh on ore?

A. I would not be sure, but I think it was ninety-six cents.

Q. What is the rate from the lake ports to Youngstown?

A. Fifty-six cents.

Q. What is the effect, if any, upon the cost of operations of plants like yours at Youngstown growing out of the maintenance of the rate of ninety-six cents from Conneaut to Pittsburgh?

A. I do not think it has any effect. I think perhaps the rate to Pittsburgh is as reasonable as the rate to Youngstown.

Q. As reasonable as the rate to Youngstown?

A. Yes, sir. A much longer distance.

Q. State whether or not one rate affects the other and the keeping up of one rate operates to keep up the other.

MR. SEVERANCE: I object to that as clearly speculative. He cannot possibly know anything about that.

MR. DICKINSON: He may know about it.

MR. SEVERANCE: Anyone could guess about it—one man as well as another.

MR DICKINSON: We will find out what he knows.

THE WITNESS: It is a great deal longer haul to Pittsburgh from Conneaut Harbor than from the lower Lake Erie ports to Youngstown. That is, from Cleveland, Ashtabula and Conneaut the rates are the same both to Youngstown and Pittsburgh, and there are several lines of road—the Pennsylvania, the B. & O. and the Lake Shore—that haul ore from different docks to Pittsburgh through Youngstown. If the rate of ninety-six cents to Pittsburgh was reduced undoubtedly a reduction would follow through Youngstown to the Shenango Valley district. If the rate was increased to Pittsburgh, it would undoubtedly be increased to Youngstown.

By MR. DICKINSON:

Q. Is the rate from lake ports to Youngstown a reasonable or unreasonable rate?

A. I think it is too high.

MR. BOLLING: The same objection as before.

By MR. DICKINSON:

Q. To what extent do you think it is too high?

MR. BOLLING: The same objection.

A. We have a suit on against the railroads on that ore, and I would much prefer not to state, if it is not important, what my ideas are in reference to that rate.

By MR. DICKINSON:

Q. Then I will not press the question, but I would like to ask you this: whether or not, in connection with that suit, you have made a study of the rate conditions.

A. I have.

Q. State whether or not your answers along the line of

questions in regard to rates have been based partly upon that study.

A. Yes, sir.

MR. DICKINSON: That is all.

CROSS EXAMINATION.

By MR. BOLLING:

Q. When you mention a suit against the railroads, in which your company is interested, do you mean a proceeding before the Interstate Commerce Commission?

A. It was a complaint before the Interstate Commerce Commission. Perhaps I should call it a complaint, rather than a suit.

Q. Do you mind saying what rate you ask for in that complaint?

A. We have not asked for any specific rate. We say the rates are unreasonable, and that we want the rate to compare with the service performed.

Q. Are any of the United States Steel Corporation roads parties to that suit?

A. No, sir.

Q. What roads are the defendants in that suit?

A. Our suit on ore was against the Lake Shore; on coke and coal it was against the Pittsburgh & Lake Erie; and the other railroads intervened, I think—the B. & O. and the Pennsylvania.

Q. When you have referred to an advantage which you believe the United States Steel Corporation has by reason of its ownership of the railroads on the Mesabe Range, do you or not mean merely the increased earning which they make through the conduct of another branch of the business in which you yourself are not engaged?

A. That is what I mean, that they have an increased earning, and that earning is taken from us, of course, partly, to the extent to which they haul our ore.

Q. Taken from you by the Steel Corporation, only because they happen to be conducting the railroad business there?

A. Yes, sir.

Q. Instead of some one else conducting that business?

A. Yes.

Q. Now, Mr. Campbell, will you describe the conditions which existed when these meetings about which you have been questioned were begun?

A. Prior to this first Gary dinner, in the fall of 1907, there was a money panic in New York, as they called it. Money was very tight and you could not get currency, and you could not get credit, and the conditions to the business man and to the banker, were very grave at that time. Judge Gary called the leading manufacturers in the steel business together at a dinner, and afterwards that was named the Gary dinner.

Q. Did the alarm as to these conditions exist among others than the manufacturers of steel and iron?

A. Among everybody.

Q. Was it felt by the banking interests throughout the country, by the small country banks as well as the big banks in New York City?

A. Yes. We had $1,750,000 on deposit with our bankers in New York and Cleveland and Youngstown at the time and we were obliged to pay our men in Clearing House certificates rather than to try and draw that money out of the bank to pay them in currency. We felt that we ought to assist the banks to that extent in securing the currency, as it was almost impossible at that time to make up pay rolls and pay in currency.

Q. Then the condition of affairs which existed at that time was a menace not merely to the manufacturers and the banks, but to the laboring man as well?

A. To everybody, to laboring men and men in every class of business.

Q. What were the conditions with respect to the jobbers, especially with respect to stocks on hand; were they in danger?

A. The jobbers had quite large stocks. It had been a very prosperous year, the largest year up to that time that we had known, and all jobbers and all consumers, as far as we could learn, had very large stocks of material on hand.

Q. And a sudden and great fall in the value of those

stocks would have been of great financial harm to those jobbers and consumers?

A. Put about one-half of them, I think, in the hands of receivers and would have carried down banks and business houses generally, besides bankrupting most of the small manufacturers, if they had suffered similar depreciation with reference to their materials.

Q. Were these conditions strong in the minds of you gentlemen when you commenced to meet as you have described?

A. They were. Those were the days when we were lying awake nights. I think everybody was alive to the situation and everybody was alarmed.

Q. Was there a desire on the part of you gentlemen meeting there to sink selfish interests for the general advantage in the situation?

A. There was, yes, but it was a selfish interest after all. If we put our jobbers and consumers out of business, they would not be able to pay us for the material they already had bought from us. We all had large sums of money on our books, and nobody was in a position to pay anything at that time, and we were anxious to protect them, in order to protect ourselves. It was not unselfish entirely, but of course I think we were all broad enough to feel that we wanted to protect the general country for the general good, because it would have been a bad thing for us, as well as anybody else, if we had had a panic that would have carried with it wreck and ruin all along its path.

Q. Was the advantage hoped to be gained if any was gained that which followed from these meetings, as great or greater to the independents as it was to the subsidiary companies of the United States Steel Corporation?

A. I think it was greater to the independents, because I think it kept a number of them from going into the hands of receivers, and the Corporation probably would not have failed, even though they had had serious losses.

Q. When you have said that you knew and repeatedly reminded the gentlemen present that you could not make any

agreements, did you include oral agreements as well as written?

A. Yes, sir.

Q. And implied agreements as well as expressed agreements?

A. Yes, sir.

Q. Then you had it constantly in mind that you could not enter into any agreement, written, oral, expressed or implied?

A. Yes; it was stated at every meeting which I had anything to do with.

Q. Did those meetings do more than appeal to the reason of the different members present to regulate their conduct wisely?

A. Yes, sir; I think it had a steadying effect on the market. I think it was to the advantage of the manufacturer and the jobber and everybody else, because I think we received a higher price than we would if each one——

Q. (Interposing) Was not that obtained merely through appeal to the reason of the men present?

A. Yes, sir; I think it was.

Q. Was not the purpose of those meetings to enable everyone present to form his opinion as to what was the best course to follow individually under the conditions which were found to exist, with a full knowledge of those conditions as given by all the other members present?

A. It was.

Q. No obligations were assumed or promises made, were there?

A. I think there was a moral obligation——

Q. (Continuing) Other than that of frank dealing?

A. I think there was a moral obligation assumed. No promises were made. Definite statements were made, however, as to what their policy would be in conducting their business.

Q. When you refer to a moral obligation, do you mean anything more than to fully inform and fairly inform your competitors of the conditions as you found them, and your business policies, and of any change you intended to make?

A. Yes, sir; they were to advise us of any change in advance. The old method pursued by the Carnegie Steel Company was to go out and scoop all the business, and we were supposed to give them information in advance, and they could do the same, if they felt that they cared to. In speaking about these meetings, all the way through, I want it thoroughly understood that that was the understanding by me. I cannot say what the understanding was among the other people.

Q. You endeavored, did you not, to impress upon the others your understanding?

A. Yes, sir.

Q. Will you describe very fully, Mr. Campbell, the increase in size of your company since it began operations in 1900?

A. When we organized, in the fall of 1900, we had an authorized capital, a subscribed capital, of $600,000, which was afterwards paid in. We started out to build six sheet mills and two pipe mills, one buttweld mill and one lapweld mill. We afterward decided we could build two buttweld mills nearly as cheaply as we could one, because we could put them in the same building, and we changed that to two mills. So we started with a puddle mill and six sheet mills and three pipe mills. Since that time we have increased from year to year until we have over $20,000,000—about twenty-three and one-half million dollars in our business now, including our paid-in capital and our surplus or undivided earnings since that time.

Q. And you have been paying dividends during that time?

A. We paid eight per cent. on our common stock. Only recently have we issued any preferred stock. Seven per cent. on the preferred stock after the first four years. The first four years I do not think we paid any dividend.

Q. During all this time of growth of your company you have been constantly in competition with various subsidiaries of the United States Steel Corporation, have you not?

A. They have been our principal competitors.

Q. Will you give your experience as to the character of the competition?

A. My experience is that it is the best competition we have; that they are open and above-board in all of their dealings. Their prices are either published or we get direct information from them, or through our customers, as to what their price is, and we find that their price is practically the same to everybody. With other competition that we have, with the independents, for instance, the independents vary more in their prices, and we never quite know what their price is. It may be one thing to-day and another to-morrow, and they do not conduct their business in the same way, because it is a smaller business and more of an individual business; and they will make prices according to the class of material pretty largely, and the class of orders. So we were not as capable of gauging how they are conducting their business as we are in regard to the subsidiary companies of the Steel Corporation.

Q. Is your competition with these subsidiary companies of the United States Steel Corporation active and energetic and vigorous competition?

A. It is—very, at times. We sell to many of the same people that they do—the same class of material.

Q. Have you ever known of their having made low prices in a limited section of the country for the sake of attempting to put a competitor out of business?

A. I think not. I do not recall any time, with any company.

Q. Have they in your experience been guilty of any unfair methods to suppress competition?

A. I think in the early days—I did think in the first two or three years we were in business that there were some things done, and I think done without the knowledge of the higher officials, that were unfair; but those disappeared promptly, and there has been nothing of that kind—nothing but the fairest competition in every respect for the last seven or eight years.

Q. When the market has been falling what has been your experience as to the prices which they have maintained as compared with those of the independents?

A. In depressed times, when there is not nearly enough

business to keep all of the mills operating to their full capacity, their prices are usually higher than the independents. In good times, when the mills are all working to capacity, their prices are usually lower than the independents. The independents will accept bonuses and do things of that kind that I do not think the corporation will do. So that I think the general effect is for the steadying of prices and making them better for the country at large, and of course in dull times it is a great protection to the smaller manufacturers to have them keep their prices up, when business is slack, than it would be if they went out like the Carnegie Steel Company did in the early days and took all the business and shut the other people down.

REDIRECT EXAMINATION.

By Mr. Dickinson:

Q. You say for the last seven or eight years this competition has been fair but that before that there were unfair things done, or unfairness upon the part of some of the subordinate companies?

A. There were some things that occurred that I thought were unfair.

Q. What kind of things were they?

A. Well, we would hear from our customers that the Corporation knew the car number and the number of cars of material that we would ship during a certain month. That was when we first started in business.

Q. They kept a tab on your business and your customers?

A. It looked as though they were keeping a tab on our business.

Q. What other things were done that you think were unfair?

A. I do not think of anything else.

Q. In the last seven or eight years, then, you think that there has been a very broad and wise administration on the part of the heads of the Steel Corporation?

A. Yes, sir.

Q. Now, Mr. Campbell——

MR. BOLLING: I do not think he finished his answer.

A. (Continuing) I was going to say that in the early days of the corporation, like every other corporation, it takes a little time for the people at the head of it to get their full grasp of the situation and full control of the organization. As soon as that came into effect all of these things were stopped promptly.

By MR. DICKINSON:

Q. Under whose administration did that come into effect?

A. I think at that time perhaps Mr. Schwab was president, and I think Judge Gary has always been chairman of the corporation.

Q. Who has been the controlling spirit for the last seven or eight years—Judge Gary, has he not?

A. I think so.

Q. I mean during the time you have referred to when you say the competition has been fair?

A. Judge GARY: I do not think think he would permit any unfair thing at any time, if he knew it.

Q. Speaking of competition, Mr. Campbell, taking the extent of the ore holdings of the United States Steel Corporation, its ownership of railroads, the extent of its capitalization, and the character of men engaged in it and their relations to banking circles and railroads, I will ask you whether or not, if the corporation pursued a different policy from that which you have described as actuating Judge Gary, it would be in their power to put their competitors out of business?

MR. BOLLING: Objected to as calling for a speculative answer and as not based upon a proper foundation, it not having been shown that there are any relations between the Steel Corporation and banking or railroad interests, or that the witness knows what they are.

MR. DICKINSON: The petition and answer show that sufficiently, I think; but answer the question, subject to objection.

THE WITNESS: I think they would have the power, yes, sir. On the other hand, the contrary is true. The experi-

ence of the smaller independent manufacturer has been that he has been more prosperous since the United States Steel Corporation was organized than ever before.

By Mr. Dickinson:

Q. But, under a different kind of administration, under a different kind of policy, under a different kind of leadership, you say the result might have been different and could be different?

A. I think if Judge Gary would happen to die to-night that there would be a good many steel people that would lie awake until his successor was appointed.

Q. You were asked about the panic of 1907. Was not that known generally throughout the country as a bankers' panic?

A. I do not know that you could call it a bankers' panic. It affected everybody, and other people just as much as it did the bankers. Of course, the banks did not have the currency to give to the manufacturers to pay off their men. I would say it affected the manufacturers just as much as the bankers.

Q. Where did the panic start?

A. It started, I think, in New York, where most everything starts.

Q. Up to that time what had been the general business conditions of the country?

A. Very prosperous.

Q. They had been very prosperous?

A. Yes.

Q. Did this panic come suddenly?

A. Very suddenly, like a flash out of a clear sky. I guess some wise people may have seen it some few months in advance, but not long.

Q. So, with the country in a prosperous condition, suddenly this panic flashed up in New York, and then, you say, it spread and reflected itself over the whole country?

A. Yes, sir.

Q. Shortly after that and, as you have explained, growing out of those conditions, you began these meetings, and you think they had a good effect upon the country?

A. Yes, sir.

Q. How long did that panic continue?

A. A good many of us kind of think that it continued up until early this year. I don't know. Not so severe, of course. It tapered off gradually until things got better. The severe part of the panic did not last over thirty days.

Q. What volume of business, for instance, did your company do in 1910, as compared with the previous years?

A. Our business was not quite as good in 1910 as it was in other years. It was not so good as compared with other companies.

Q. The panic, however, you say passed away in about thirty days?

MR. BOLLING: He said the acute stage.

A. Not the effects of the panic, but you could get money after about thirty days.

By MR. DICKINSON:

Q. Well, did business begin to pick up?

A. No, business did not pick up very rapidly. Of course, there was a certain amount of business going on all the time, but railroad buying and all that was stopped short.

Q. Do you know of any railroad that in 1910 went into the hands of a receiver.

A. No, sir. There may have been some, however.

Q. What large manufacturer of steel or iron, if any, if you know of any in this section of the country, went into the hands of a receiver?

A. None that I know of.

Q. Was business generally good or not, and was it in a fairly prosperous condition in 1910?

A. I would say it was fairly good. The mills ran perhaps 65 to 70 per cent. of their capacity.

Q. Were there any conditions existing in 1909 or 1910 which indicated that insolvency was imminent to any considerable number of people in the iron business?

A. No, sir; I think not.

Q. You kept up these meetings, however, until 1911, you tell me?

A. I think so. I do not know the exact date.

Q. And the character of the meetings was substantially the same throughout, was it?

A. Except a number of the later meetings that we had, perhaps the last year that we had meetings, the subsidiary companies of the corporation were not represented.

Q. In the last year?

A. Perhaps the last year, I do not know; but for some little time.

Q. But up to that time was the character of the meetings the same?

A. Yes, except we made reductions in prices and a lot of things after the worst of the panic was over, and after the jobbers and others had had an opportunity to dispose of their stock.

Q. And these things were concurred in generally at those meetings?

A. Yes, sir. They usually occurred before the meeting, but they were adopted at the meeting.

Q. And then continued until the next meeting?

A. Usually they were not any higher: sometimes lower.

Q. Notwithstanding that you knew that you could not make any written or oral agreement, and impressed that upon those who were there, nevertheless you did make the announcements as you have explained, and the declaration of policy, as you have explained, which would continue until the future time as you have explained in your direct examination. Is that correct?

A. Yes, sir.

Mr. Bolling: Until some notice, he said.

Mr. Dickinson: I said, "as explained."

By Mr. Dickinson:

Q. Can you get your ore out of the Mesabi region except over some one or other of the railroad lines?

A. No, sir.

Q. Was the rate the same over all the railroads serving substantially the same territory?

A. That is my understanding.

Q. And have been continuously the same?

A. Yes, so far as I know.

Q. Would it not be to the interest of the United States Steel Corporation to maintain a higher rather than a lower rate?

MR. BOLLING: Objected to, as it is purely speculative.

MR. DICKINSON: I did not know. I am willing to take chances on his answer.

THE WITNESS: It would be more profitable to them to maintain a higher rather than a lower rate.

By MR. DICKINSON:

Q. There are other railroads on the Misabe Range than those owned by the United States Steel Corporation, are there not?

A. Yes.

Q. Does any of your ore come over those other roads?

A. I think so.

Q. Over what roads does it come?

A. The Northwestern, I think.

MR. SEVERANCE: The Great Northern.

THE WITNESS: The Great Northern, yes.

By MR. BOLLING:

Q. Do you not know, Mr. Campbell, that the 80 cent rate, to which you have referred, was originated long before the Steel Corporation became interested in those railroads, and long before it was organized?

A. I think that is true. I only know in a general way. I knew nothing about rates prior to that time.

Q. Do you know, also, that the reduction was initiated by the Steel Corporation, and not the Great Northern Railroad?

A. I do, and a very wise provision on their part, especially at that time.

By MR. DICKINSON:

Q. When was the 80 cent rate first instituted there?

A. The rates were instituted to take effect at the opening of navigation this year.

Q. No, I say the 80 cent rate. When was that first instituted?

A. I do not know. That was before my time.

Q. How far back does your knowledge of the existence of that rate go?

A. Only about to 1900. I was in the operating department before then, and I do not remember that I took much interest in rates.

Q. Since 1900 has the volume of business on those roads increased or diminished?

A. It has increased. That is, taking it over a period of years.

Q. To a large or small degree?

A. To a large degree.

Q. And nevertheless they hold their old rate that used to be in existence as far back as 1900, down to 1911?

A. I think so.

By Mr. Severance:

Q. You know, do you not, that many trunk lines have increased their rates in the last ten years, although the volume of business has vastly increased on all kinds of commodities for long distances?

A. I think they have, but I do not see that it would have any bearing.

Q. As much bearing as Judge Dickinson's question.

A. Because their rates may have been too low before they were increased.

Q. But you do not know as to that?

A. I do not know as to that?

Q. Even the B. & O. has increased its rates, has it not?

Mr. Reed: The witness objects to the question as irrelevant.

Mr. Dickinson: Do you know that?

The Witness: I do not.

Mr. Dickinson: All right. Put his answer down. That is all.

(Thereupon, at 12:30 o'clock p. m., a recess was taken until 2 o'clock p. m.)

AFTER RECESS.

At the expiration of the recess the hearing was resumed.

JULIAN KENNEDY,

a witness produced on behalf of the Government, having been first duly sworn, testified as follows:

DIRECT EXAMINATION,

By Mr. Dickinson:

Q. Mr. Kennedy, where do you reside?

A. Pittsburgh.

Q. What is your age?

A. Sixty.

Q. What is your present occupation?

A. Consulting and mechanical engineer.

Q. How long have you been in that business?

A. About twenty years.

Q. Please state, Mr. Kennedy, in a general way, what comes within the province of your profession, and on what lines of work you act as a consulting engineer.

A. Principally in designing and constructing iron and steel works.

Q. Before you began that business, did you have any experience in the steel business?

A. Some.

Q. With whom?

A. With the Carnegie Steel Company; Carnegie, Phipps & Company.

Q. What is that?

A. With Carnegie Brothers & Company and Carnegie, Phipps & Company.

Q. What position did you hold with them?

A. I was for about four years superintendent of blast furnaces at the Edgar Thompson Works.

Q. Where were they located?

A. At Braddock, Pennsylvania.

Q. What other experience did you have?

A. For about two years I was superintendent of the Lucy Furnaces at Pittsburgh, Pennsylvania; for about three years general superintendent at the Homestead Works of Carnegie, Phipps & Company; chief engineer of the Latrobe Steel Company for three years; for three years with works at Latrobe, Pennsylvania; and since 1891 I have been engaged as general consulting engineer in this city.

Q. If you have ever designed and constructed blast furnaces, please state what they were and where located.

A. I have designed and constructed a large number of blast furnaces, some at the Edgar Thompson Works, some at the various works of the Illinois Steel Company in Chicago, and at Joliet, and of the Iroquois Company at Chicago, the Toledo Furnace Company at Toledo, the Cleveland Furnace Company at Cleveland, the American Steel & Wire Company at Cleveland, the Rogers-Brown Iron Company at Buffalo, the Union Iron Works at Buffalo, the Tonawanda Iron & Steel Works at Tonawanda, the Punxatawney Iron Company, the Adrian Iron Company at Dubois, Pa., besides furnaces in Russia and India.

Q. In that number have you included any rolling mills or steel furnaces?

A. I have constructed both furnaces and mills for the Youngstown Sheet & Tube Company. I have also constructed mills for the Carnegie people while with them, and for a number of other people.

Q. State whether at any time you have had any association or connection as an officer with any railroad, and where it was and what kind of road, and during what period.

A. Only with an electric interurban road.

Q. What position did you hold?

A. I was vice-president.

Q. State whether or not you have given any consideration to the question of reasonableness of railroad rates, and what would be a fair charge for carriage.

A. I have in a general way, yes.

Q. Have you been a shipper or not?

A. Yes, I have been a shipper of coke.

Q. Have you any connection with a coke company?

A. I am president of a coke company.

Q. Does that company ship any ore?

A. No.

Q. In the year 1898 or 1899, preceding the formation of the National Tube Company, state whether or not there was competition between the makers of tubes in this country.

A. Yes, there was strong competition.

Q. Strong competition. Were you ever employed in connection with any other one, and if so, whom, to make an estimate or inspection and estimate of the values of the tube works that subsequently were combined under the National Tube Company?

A. Yes, I was employed in connection with valuations of tube plants, and worked in connection with Mr. Robert Forsythe of Chicago.

Q. Who employed you and Mr. Forsythe?

A. J. P. Morgan.

Q. Did you make an examination of any tube plants?

A. We did.

Q. Can you state now, either from memory or from any memorandum, what plants you examined before giving that opinion?

A. From a memorandum. I do not know that I can call them all off without it.

Q. Did you go around to the several plants?

A. I do not think we visited all the tube plants in the country. We went to a great many.

Q. How about those in respect to which you gave an opinion?

A. We visited all the ones upon which we placed a valuation.

MR. SEVERANCE: You visited all those?

THE WITNESS: All the ones upon which I reported.

By MR. DICKINSON:

Q. Did you make a report of valuation upon those properties?

A. We did.

Q. To J. P. Morgan & Company?

A. Yes.

Q. Have you got a copy of that report with you?

A. Yes.

Q. Will you please produce it?

A. Yes, sir. (Witness produces report.)

Q. (After examining report) Is this or not a carbon copy of the original?

A. I am not sure. I think it is.

Q. By whom is it signed?

A. Julian Kennedy and R. Forsythe.

Q. What became of the original?

A. It was mailed to J. P. Morgan & Company, New York.

Q. Did you get an acknowledgment of it in any way, or did it come to your knowledge that it reached their hands?

A. Yes; it was either mailed or sent by special messenger. My recollection is that it was sent by special messenger to them.

Q. It was sent either by mail or messenger, and you say that it came to your knowledge subsequently that it had reached their hands?

A. Yes, sir.

MR. DICKINSON: We offer that report in evidence.

MR. SEVERANCE: I consent that that may be received in lieu of the original, with the understanding that afterwards, if it is found there are any errors in it, they may be corrected.

MR. DICKINSON: I understand that you agree that this may go in, the same as if it were the original?

MR. SEVERANCE: Yes, subject to correction, if we find that there are any little errors in it.

By MR. DICKINSON:

Q. Are there any plants on that list which were subsequently not taken over by the National Tube Company?

A. I think there are, but—

Q. Can you designate them?

A. No, I could not, with certainty.

Q. They are valued there separately?

A. Yes; each one is shown individually.

MR. DICKINSON: Considering this as having been put in as an exhibit, I would like to have it copied into the record at this point.

(The report referred to was marked Exhibit No. 137, October 2, 1912, and is as follows:)

JULIAN KENNEDY
Engineer

Cable Address
Engineer, Pittsburgh

PITTSBURGH, U. S. A., May 13, 1899.

MESS. J. P. MORGAN & COMPANY,
New York, N. Y.

GENTLEMEN:—

Pursuant to instructions we have examined the various Tube Works mentioned hereafter, and beg to submit the following valuations of same; these valuations being made up of the value of the land plus the value of the plants, based on the cost of constructing similar plants and putting them into operation as going works, also having due regard to the physical condition of these plants, and taking into account any patented machinery in use in the same, but not considering any possible improvements in practice at the various works, nor any lessened expense of operating which might be obtained by combining any or all of these works together. We find nearly all of these works to be in good order and in full operation.

The following are the values as we estimate them:

NATIONAL GALVANIZING PLANT, including special contract for work with the National Tube Works	$530,000
NATIONAL TUBE WORKS, including	
Pipe Mills	
National Rolling Mills & Forge	

Boston Iron & Steel Works Furnaces & Steel Plant Republic Iron Works U. S. Seamless Department McKeesport Connecting Railroad Company National Transportation Company	$10,096,000
Pennsylvania Tube Works	1,942,500
Oil Well Supply Company	916,000
Pittsburgh Tube Works This is not a going plant.	448,000
Riverside Iron Works, including coal properties in Wheeling, Blast furnace property at Steubenville; two tracts of coal land in Connellsville region	3,850,000
Jersey City Galvanizing Works (on leased land)	38,000
Spang Chalfant & Co. including land surrounding plant, store, connecting railway, and Allegheny office, but not including real estate in Shaler Township, or in Evans City or in Hampton Township, and not considering the value of the contract which they have for gas for mill	929,000
Harrisburg Rolling Mill	290,000
Tyrone Iron Company	180,000
American Tube & Iron Company, including plants at Middleton and Youngstown	1,450,000
Ohio Tube Company, Warren, Ohio	461,000
Oil City Tube Company	550,000
Chester Pipe & Tube Co.	475,000
Delaware Iron Company	660,000
Allison Manufacturing Co. lands and buildings leased, leaving only machinery	275,000
Conshohocken Works, including works of Longmead Iron Company, Conshohocken Tube Co. and Galvanizing Works connected therewith	342,000
Hoovens Old Works, Norristown; these are not going works, and are not works that any	

one could afford to start and run under ordinary conditions. There might be circumstances which would justify paying from $30,000 to $50,000 for them and dismantling them.

Cohoes Tube Works	275,000
Rolling Mill	175,000
These mills are unique in location and are using water power and it is therefore difficult to arrive at their value.	
Syracuse Tube Works	375,000
Total	$24,257,500

remain,

Yours respectfully,

By Mr. Dickinson:

Q. State whether or not you visited, at the request of Morgan & Company, any other plants other than those named in that list with a view of considering their value. For instance, I will ask you whether you visited the plant of A. M. Byers & Company.

A. As I remember it, we did not.

Q. Do you know anything about any plan communicated to you in any conversation, or mention of any plan, which originally contemplated taking in any plants other than those mentioned in this paper?

Mr. Severance: Communicated by whom?

Mr. Dickinson: By Morgan & Company or any of their representatives.

A. Yes, as I recollect it, there were.

Q. What were they?

A. I cannot remember, but I have a somewhat indistinct recollection that there were one or two plants contemplated which we were told we need not mind about visiting.

Q. How about Byers & Company?

A. I do not remember.

Q. How about Spang, Chalfant & Company?

A. Spang, Chalfant & Company we visited and placed a valuation on.

Q. Is that in that list?

A. Yes, sir.

Q. Did you know at that time, Mr. Kennedy, what concerns in the United States were engaged in the making of tubes?

A. I knew most of them. I would not be certain that I knew every one.

Q. What percentage to the whole did those which were combined in the National Tube Company bear?

MR. SEVERANCE: If he knows.

MR. DICKINSON: Of course.

MR. SEVERANCE: He said that he was not sure that he knew them all. That is the reason I make the suggestion.

A. It would be only an estimate. I should guess it to be about 85 per cent.

MR. SEVERANCE: Do I understand that question to be addressed to the ones included in his estimate, or those that went into the Tube Company?

MR. DICKINSON: Those that went into the Tube Company.

MR. SEVERANCE: Not those included in the estimate?

MR. DICKINSON: No, sir.

By MR. DICKINSON:

Q. What advantage, if any, would it have been to the United States Steel Corporation to go into the market and buy pig iron and sustain the market price of pig iron; what effect would it have as to their relations and business between themselves and their competitors?

MR. SEVERANCE: I object to that, as there is no foundation laid for the question.

(The question was repeated by the stenographer.)

MR. DICKINSON: Strike out the words "and business," and read the question again.

(The question was read by the stenographer as follows:)

"Q. What advantage, if any, would it have been to the United States Steel Corporation to go into the market and buy pig iron and sustain the market price of pig iron; what effect would it have as to their relations between them and their competitors?"

By Mr. Dickinson: Now answer that question.

A. That would have depended somewhat. If they had needed the pig iron of course it would not have had any; of course, if they bought with special reference to maintaining the price, it would probably have had the effect of keeping up prices on finished goods, keeping the trade in healthier condition.

By Mr. Dickinson:

Q. How are the semi-finished products sold in reference to the future prices of pig iron?

A. They are very often based on pig iron.

Q. For how long a period ahead?

A. Sometimes for a year and sometimes longer; based on monthly reports of pig iron prices.

Q. If contracts were made for delivery a year ahead, and the price was a sliding one, based upon the subsequent prices of pig iron, how would that affect purchasers if the price of pig iron was raised by going into the market and purchasing pig iron, or if it was sustained from falling by going into the market and purchasing pig iron?

A. It would keep up the price of the finished products in a proportionate degree.

Q. Suppose billets were sold for future delivery, and the market in pig iron should be going down, under the system that prevails, as I understand you to have stated it, the future price changing with the price of pig iron, how would it affect such contracts to go into the market and buy pig iron?

Mr. Severance: I object to that as not being based upon any testimony given by the witness, or in the case, and as indefinite and irrelevant.

MR. DICKINSON: We expect to prove, and we have proved, in fact, that the United States Steel Corporation repeatedly went into the market and bought large quantities of pig iron. That has already been proved. Now, it is based upon that fact, and Mr. Kennedy's statement that it was customary to sell unfinished products for future delivery upon a sliding scale, based upon the subsequent prevailing price of pig iron. The question put to him is, what effect that would have upon such contracts and upon the purchasers under those contracts.

MR. SEVERANCE: I renew the objection.

MR. DICKINSON: Now you can answer the question.

A. If the price was raised by these purchases, it would act to automatically raise the price of materials based on the pig iron in a proportionate degree.

Q. What effect does the fact of ownership of railroads by the United States Steel Corporation have upon its competitors who are buying and selling in the market the same class of products that they sell, which have no railroads?

MR. SEVERANCE: That is objected to as irrelevant and as not based upon any testimony.

A. It would give the Corporation an advantage, providing the freight rates charged were more than the correct rate. Otherwise, it would have no effect.

By MR. DICKINSON:

Q. Do you know what the rate on ore from the ore regions, the Misabe Region, to the lake ports, was down to 1911?

A. Yes, sir.

Q. What was it, per ton?

A. Eighty cents.

Q. Do you know anything about the character of those roads, the Duluth, Mesaba & Northern, and the Duluth & Iron Range?

A. Not much. I have been over them.

Q. Have you ever been over them?

A. Yes, sir.

Q. Are they expensive roads to operate?

A. No, I should say not.

Q. Are they roads of expensive construction?

A. Not very.

Q. What, in your opinion, would have been during that period, say from 1901 down to the time of reduction in 1911, a just, fair and reasonable rate for transporting ore from the ore mines to the Lake Superior ports?

MR. SEVERANCE: I object to that as incompetent, and because there has been no foundation laid whatever, the witness not having qualified himself as an expert on freight rates. There has been no attempt to qualify him as an expert on freight rates. He has merely ridden on roads. That is the extent of his qualification.

By MR. DICKINSON:

Q. Give your opinion, Mr. Kennedy.

A. I think a rate of forty-five cents would have been a remunerative rate during that period.

Q. If that were a remunerative rate, what advantage, if any, by reason of the ownership of such roads would the United States Steel Corporation have over competitors who shipped ores from that region and were selling in the market here the same class of product?

A. They would have the advantage of thirty-five cents per ton on the ore hauled for those competitors.

Q. Per ton of ore?

A. Per ton of ore; which would increase the manufacturing cost of their competitors and correspondingly reduce their own, depending on the relative amounts hauled for themselves and for the others.

Q. From your knowledge of the iron and steel business, the relative capacities of those engaged in it, the capitalization of the United States Steel Corporation, its ownership of railroads, its connection with financial interests, state whether or not in your judgment it has the potentiality, if it uses it, to destroy its competitors.

MR. SEVERANCE: I object to that on the ground that the question is not based upon any evidence in the record, that

it is indefinite and does not call the attention of the witness to the elements giving to the Steel Corporation the potentiality mentioned, and that it is incomplete as a hypothetical question, and incomplete as a statement of facts, irrelevant and immaterial, and that the witness has not shown that he is competent to answer this particular question as put.

By MR. DICKINSON:

Q. Please answer the question, will you?

(The question was repeated by the stenographer.)

A. I think it has.

Q. Has it or not a very decided advantage over its competitors by reason of its ownership of railroads?

MR. SEVERANCE: I object to that as leading and irrelevant.

A. Yes, I think it has.

By MR. DICKINSON:

Q. State whether or not it is necessary that fabricating works should be very large and have an enormous capacity and be integrated in order to economically assemble structural material.

A. I think it is not necessary that fabricating works should be extremely large, except, perhaps, in case of handling very large and special structures.

Q. What kind of structures do you mean: bridge structures, for instance?

A. Oh, something like the Quebec Bridge or the East River Bridge, or something of that kind.

Q. To handle that kind of work, how large would it be necessary for a capitalization to be?

A. It would be very difficult to state, but it would be naturally more than was necessary to handle ordinary sized bridges, and buildings such as the majority of work over the country is composed of.

Q. For handling ordinary sized bridges what capitalization would be sufficient?

A. I do not think I could say, offhand.

Q. Very well. Could fabricating works producing 30,000 or 40,000 tons be operated as economically as if they produced say 100,000 tons?

A. In what time is that; per month or per year?

Q. Per year.

A. Substantially, they could, but they might not be able to take as large contracts.

Q. What acquaintance or familiarity did you have with the various concerns taken over by the American Bridge Company at the time of its organization?

A. I was acquainted with some of them but I did not make any formal examination of these, and had nothing to do with any valuations of them, or anything of that kind.

Q. Does the making of the structural material for bridges necessarily require what you would call an integrated plant; that is, leading down to the ore—a fabricating works, I mean?

A. No; fabricating works do not necessarily need to be integrated with other works.

Q. Is that a continuous process; that is, does it keep hot from the time it starts until the finished material is through with?

A. No.

Q. Or does it have to be worked cold?

A. It has to be worked cold.

Q. How is that about making tin plate and sheet steel?

A. Tin bars are allowed to become cold, so that there is no necessity of coupling up the tin mills closely to the mills that make the tin bars.

Q. Is there any economy in it?

A. Only in the question of transportation.

Q. Suppose the tin plate mills are scattered around the country; is there any saving in the matter of transfer where they are scattered around the country like the mills of the American Tin Plate Company? There is no saving in the matter of transfer there, is there?

MR. SEVERANCE: I object to that as leading.

By Mr. Dickinson:

Q. What I mean to say is, they have to be carried to these mills, do they not?

A. Yes.

Q. Are they connected up, the mills of the American Tin Plate Company, closely with the mills that make the bars?

A. I think some are, and some are not.

Q. How, at the time that these purchases were made of the tin plate mills?

A. Some made their own bars, but some did not, at that time.

Q. In the tin plate mills state whether or not ten or twelve mills can be used in the manufacture of tin plate approximately as cheaply as a larger number.

A. Yes; I think they can.

Q. Was the Carnegie Company, at the time it was taken over by the United States Steel Corporation, what was called an integrated company, as you understand that term?

A. I do not know that I fully understand this. The principal works of the Carnegie Company were very complete, and worked from ore to rails or bars, without allowing the material to become cold,—if that is what is meant.

Q. They owned the ore, did they?

A. They did.

Q. Did they own coking coal?

A. I think so.

Q. Did they own the ships?

A. I do not know about that.

Q. How about the Federal Steel? State whether or not that was an integrated company at that time?

A. Yes; their works were, I think, very complete.

Q. Were they practically complete within themselves, in all their processes of operation, each one of them?

A. I think so.

Mr. Severance: What do you mean? The Federal Steel Company?

Mr. Dickinson: The Federal Steel and the Carnegie Company.

By MR. DICKINSON:

Q. How is that?

A. I judge they were, to a great extent, anyway.

Q. Mr. Kennedy, state what you may know in regard to the Carnegie Company projecting the tube works to be built at Conneaut.

MR. SEVERANCE: May I ask a question before that is answered, Judge?

MR. DICKINSON: Yes.

By MR. SEVERANCE:

Q. Were you a member of the Carnegie Company at that time?

A. No.

MR. SEVERANCE: I will object to the witness stating anything that he knows by hearsay.

MR. DICKINSON: I asked what he knew.

MR. SEVERANCE: This examination was rather casual, and I did not know but what Mr. Kennedy would think he might be allowed to tell what he had been told by somebody.

(By request the stenographer read the pending question, as follows:)

"Mr. Kennedy, state what you may know in regard to the Carnegie Company projecting tube works to be built at Conneaut."

THE WITNESS: I know nothing that any one else might not know.

By MR. DICKINSON:

Q. State whether or not it was a matter of common knowledge at that time.

MR. SEVERANCE: I object to that as incompetent and immaterial.

THE WITNESS: It was a matter of common rumor at that time; I do not know about the knowledge.

By Mr. Dickinson:

Q. Was it in the newspapers? Was it spoken of in the newspapers?

Mr. Severance: I object to that as not the best evidence, and as incompetent and immaterial.

The Witness: I think it was, but I would not be certain.

By Mr. Dickinson:

Q. State whether or not if they had purposed erecting at Conneaut a tube mill that would have afforded a profitable or an unprofitable field for the Carnegie Company to go into.

Mr. Severance: I object to that as being speculative.

The Witness: I thought it would have been a very promising field.

By Mr. Dickinson:

Q. What interests were the controlling ones in the National Tube?

Mr. Severance: That is, if he knows.

Mr. Dickinson: I think he does.

The Witness: I understood it was what is known as the Morgan interests.

By Mr. Dickinson:

Q. What other interests, at that time, were the Morgan interests known or understood by you to be connected with?

Mr. Severance: Objected to as incompetent and as asking the witness to state something that is understood, and not asking for anything of which he has personal knowledge.

By Mr. Dickinson:

Q. Do you have any knowledge of the Morgan interests having been connected with the Federal Steel Company?

A. The same knowledge that was current to any one; no special knowledge.

Q. If J. P. Morgan & Company were largely interested in the Federal Steel and in the National Tube, state whether or not the building of tube works by Mr. Carnegie at Con-

neaut would be injurious to the interests of Morgan & Company?

Mr. Severance: Objected to as purely speculative, incompetent and immaterial, and not a question for expert testimony.

The Witness: It would certainly have brought in very strong competition.

By Mr. Dickinson:

Q. Could or could not the Carnegie Company have made tubes cheaper there, with new works constructed at that time, than the National Tube Company could have made them?

Mr. Severance: Objected to as purely speculative, no foundation being laid, and as incompetent.

The Witness: Yes; they probably could.

By Mr. Dickinson:

Q. State whether or not that would have been true to a substantial extent, and if you can estimate it in dollars, estimate it as nearly as you can.

Mr. Severance: The same objection.

The Witness: I could not answer it in dollars, but they could, undoubtedly, have produced cheaper with the new works located as it was rumored they intended to locate them.

Q. Could anyone, at that time, make steel cheaper than the Carnegie Company could?

A. I do not think they could.

Q. Did Mr. Carnegie have a railroad to the lakes?

A. I think so.

Q. On that railroad could he have hauled his coal on a back haul?

A. Yes, sir.

Q. What sort of arrangements did he have for assembling raw materials, as to the cheapness of them?

A. Provided he had proceeded with the work the arrangement would have been a very desirable one for the assembling of raw material.

Q. State whether or not these would have been advantages

that he would have had over the National Tube Company in erecting tube mills for the making of tube at Conneaut.

MR. SEVERANCE: What do you mean by "these"?

MR. DICKINSON: Those that have been specified there.

MR. SEVERANCE: Why not specify them.

MR. DICKINSON: That is to say, that he could make steel cheaper than anyone else.

MR. SEVERANCE: He did not say he could.

MR. DICKINSON: Let us see if he did not.

(By request, the stenographer repeated the question referred to and the answer thereto, as follows:)

"Could anyone at that time make steel cheaper than the Carnegie Company could?

A. I do not think they could."

MR. SEVERANCE: That is another matter. You see he did not say what you thought he did. I object to this question as incompetent and immaterial, and as speculative, and not a proper question for expert testimony.

(By request the stenographer read the last question as follows:)

"State whether or not these would have been advantages that he would have had over the National Tube Company in erecting tube mills for the making of tubes at Conneaut."

MR. SEVERANCE: That is objected to for the same reasons, and also as indefinite.

By MR. DICKINSON:

Q. State what advantages, if any, the Carnegie Company would have had over the National Tube Company in the manufacture of tubes, if the Carnegie Company had established, at that time, tube mills at Conneaut.

MR. SEVERANCE: Objected to as immaterial.

THE WITNESS: They would have had a new plant, in a very desirable location, and with ability to assemble materials very cheaply; and, in my opinion could have produced tubes at lower cost than the National Company could produce them at that time.

By Mr. Dickinson:

Q. What acquaintance did you have with the Union Sharon Steel Company at the time it was taken over by the Steel Corporation, and what acquaintance did you have with those who were prominent in the ownership? Also state who they were.

A. I was not familiar with the Sharon plants of this company. I was familiar with the plant at Donora.

Q. That is the Union plant?

A. The Union plant owned by the same interest.

The prominent people in the ownership were H. Clay Frick, A. W. Mellon, William Flynn, W. H. Donner and some others.

Q. That was H. C. Frick, who had been with Carnegie, was it?

A. Yes, sir.

Q. Who was Mr. Mellon?

A. Mr. Mellon is a leading financial man and banker and manufacturer of Pittsburgh.

Q. Who was Mr. Flynn?

A. He is also a prominent Pittsburgher.

Q. Is he weak or strong financially?

A. He is quite strong, financially.

Q. State whether or not if the Union Sharon Steel Company, with those men you have named, had entered the field as active competitors of the United States Steel Corporation they could have maintained themselves better than the average owners of such plants in the country.

Mr. Severance: I object to that as incompetent, immaterial and purely speculative, and not a question of expert testimony.

A. In so far as they were very strong financially, and men of large experience in manufacturing, they would have been very able and, I judge, formidable competitors.

By Mr. Dickinson:

Q. Do you know whether the works at the Union were new or old?

A. They were comparatively new.

Q. Have you ever seen the works of the Troy Steel Products Company?

A. Yes, sir.

Q. Do you know of their condition at about the time they were taken over by the U. S. Steel Corporation?

A. They seemed to me to be very much out of repair and very badly situated.

Q. Could they have been operated at a profit, then, under ordinary conditions?

A. I do not think so.

Q. How about freights—were they favorable or unfavorable?

A. I do not know very definitely about freights, but in a general way I should judge them to be unfavorable.

Q. Has that plant ever been operated by the U. S. Steel Corporation?

A. I think not.

Q. What became of the machinery?

A. I do not know.

Q. Do you know whether it is there now or whether it was sent away.

A. No, not to my personal knowledge.

Q. Do you know who the people were who owned that property when it was taken over by the U. S. Steel Corporation—what interests?

MR. SEVERANCE: You are asking now for his own knowledge and not for a mere rumor, are you? You have asked for a great many rumors.

MR. DICKINSON: I never have asked for a rumor except once.

THE WITNESS: I do not know who the owners were except from common report.

By MR. DICKINSON:

Q. Well, I now ask for common report.

MR. SEVERANCE: I object to that.

By MR. DICKINSON:

Q. What was the common report as to the ownership?

A. I have understood it was what is known as the Standard Oil group of capitalists.

Q. Mr. Kennedy, have you a copy of the vendor's agreement for the National Tube Company?

A. Yes.

Q. Let me see it, will you.

(The witness produced the paper referred to.)

Q. (Continuing.) Will you leave this with me, Mr. Kennedy?

A. Yes, sir.

CROSS EXAMINATION,

By Mr. Severance:

Q. Mr. Kennedy, aside from your business as a consulting engineer, are you engaged in the manufacturing business?

A. As a stockholder in some works, yes.

Q. Are you an officer in any companies?

A. Yes, sir.

Q. Will you kindly state what companies you are an officer in?

A. The Orient Coke Company.

Q. What is your business with that company?

A. I am President. I am a director in the Toledo Furnace Company; also in the Cleveland Furnace Company.

Q. Go on.

A. That is all I think of.

Q. Are you a stockholder in any other steel company or iron company?

A. Yes, sir.

Q. What is the Punxatawney Company?

A. The Punxatawney Iron Company is a blast furnace.

Q. Where is it located?

A. At Punxatawney, Pennsylvania.

Q. Are you interested in it?

A. No, sir.

Q. Have you been?

A. Yes, sir.

Q. Up to what time?

A. Oh, a few months ago.

Q. What is the business of the Cleveland Furnace Company?

A. Manufacturing pig iron.

Q. Where?

A. At Cleveland, Ohio.

Q. What is the business of the Toledo Furnace Company?

A. The same.

Q. Manufacturing at Toledo, Ohio?

A. At Toledo, yes.

Q. From what source does the Cleveland Furnace Company procure its ore?

A. They procure it from the Lake Superior region.

Q. From the Mesabi Range?

A. Some of it, yes.

Q. And ship it over what roads?

A. I could not tell you exactly. I think they ship over both the Steel Corporation roads, and possibly the third road.

Q. Over the Great Northern Railroad also?

A. They likely do. I have not followed it very closely.

Q. Does this company own its own ore in the Lake Superior region?

A. Not very largely; some little.

Q. Do you own some of it on Mesabi?

A. Some interests on the Mesabi, but very small.

Q. You purchase ore that is mined on the Mesabi?

A. Yes.

Q. That is the Cleveland Company that I am asking you about?

A. Yes.

Q. Has the Toledo Furnace Company ore beds on the Mesabi?

A. No.

Q. Does it purchase Mesabi ore for consumption?

A. Some.

Q. From whom do you make your purchases for these two companies?

A. Messrs. Pickands, Mather & Company arrange the ore purchases for Toledo.

Q. And for Cleveland?

A. Cleveland buys direct.

Q. Are you interested in the Pittsburgh Steel Company?

A. No, sir.

Q. Have you been up to recently?

A. No, sir.

Q. What is the American Casting Machine Company?

A. That is a company which holds patents on casting machines.

Q. It is not a manufacturing company?

A. No, sir.

Q. As a purchaser of Mesabi ore and a shipper of Mesabi ore both of these companies of yours are interested, are they not, in the freight rates?

A. Yes, sir.

Q. A lower freight rate would be an advantage to them in your opinion?

A. No, I do not know that it would.

Q. You do not think that it would be?

A. No, not in a competitive sense.

Q. That is what I mean, in a competitive sense, it would not make any difference?

A. Probably it makes no difference to them.

Q. You say you have been over the Missabe Road. Did I correctly understand you?

A. Yes, sir.

Q. When?

A. I could not tell you the exact date.

Q. Give me the approximate date.

A. I have been up in the region two or three times, and the last time was several years ago. I could not even guess what year it was.

Q. Have you been over the Missabe road since the extension was made to Coleraine?

A. Not as far as Coleraine.

Q. Have you been over the Duluth & Iron Range Railroad?

A. Yes.

Q. Can you not tell me how many years ago it was since you visited those two lines?

A. No, I could not tell you exactly.

Q. Was it less than five years ago?

A. I should think about that time.

Q. What is the weight of rail of the Misabe Road?

A. I could not tell you.

Q. What kind of ties do they use?

A. I could not tell you that.

Q. Is it entirely a double track road or partly single track?

A. It is mostly double tracked. I would not be sure whether it was all double tracked.

Q. You do not know in detail?

A. No sir.

Q. What is the weight of rail of the Duluth & Iron Range?

A. I could not tell you that.

Q. Is it all double track or partially single track?

A. I could not be sure as to that.

Q. What is the character of the country that the Iron Range runs through; is it an easy country in which to construct a railroad or not?

A. No, not very easy, and not very hard.

Q. Are you sure that it is not very hard; did you examine it carefully so that you are prepared to make that statement?

A. No, I did not examine it very carefully; but I examined it carefully enough to know that it is not an abnormally difficult country.

Q. Do you know anything about the Muskeggs they have to build over?

A. No.

Q. Do you know what a Muskegg is?

A. I do not know that I do.

Q. A floating island. Do you know that the Duluth & Iron Range Railroad had to build over a great many of those things, where the cost of building was enormous?

A. I do not know the details.

Q. Where it was almost impossible to find a bottom; did you know that?

A. No.

Q. Do you know the cost of the ore docks of either the Missabe or the Iron Range Railroad?

A. No.

Q. You have seen those ore docks?

A. Yes.

Q. You know where the Mesabi docks are located at Duluth, do you not?

A. Yes.

Q. Do you know their size?

A. No.

Q. Do you know how many carloads of ore they will contain?

A. No sir.

Q. Do you know how many carloads of ore can be contained at the docks at Two Harbors on the Iron Range Road?

A. No.

Q. Do you know the Iron Range Road includes classification and use of the docks in the rate?

A. Yes.

Q. Do you know what their dock cost?

A. No.

Q. Do you know what either road cost in its entirety?

A. No.

Q. Do you know the wages any of the men get?

A. No.

Q. Do you know the weight of the engines?

A. No sir.

Q. Do you know the capacity of the ore cars, what they hold per car; do you know the size of the cars they use?

A. No sir; I could not tell you exactly.

Q. Not knowing any of those facts, do you think that you are in a position to give a valuable opinion that 45 cents is a reasonable rate for that service—not knowing any of these things which must be taken into account in fixing a rate; or is that merely an off-hand opinion not based upon any computations of any sort?

A. My opinion is based largely on the fact that if my memory serves me the operating expense of one of those roads was thirty per cent. of the gross.

Q. You leave out of account entirely the cost of the property; that is to say in the business you do not consider that, do you?

A. I do not remember at the moment what the cost of the property was supposed to be.

Q. Do you know what percentage of the gross earnings is involved in interest on the cost?

A. I do not. I have seen that, but I do not remember.

Q. In your estimate of 45 cents a ton how much did you include for interest on the investment, the amount of which you do not know?

A. I did not figure that in that way.

Q. You did not include anything for that, did you? You did not consider it at all?

A. Oh, yes, I considered it.

Q. But you did not figure it and you do not know what it is?

A. Oh, yes, I know what it is.

Q. State what it is. What part of the 45 cents is interest on the investment.

A. Twenty-one cents.

Q. Twenty-one cents is interest on the investment, and 24 cents is the cost of operation?

A. Yes.

Q. Where did you get that 21 cents, if you do not know the cost of any of the property?

A. Twenty-one cents is the difference between 24 cents and 45 cents.

Q. I know that and anybody could tell that. That is simply a matter of subtraction; but you say you do not know the character of the rails, the locomotives, the cars, the cost of the ore docks, the cost of the construction of the road, or any of those items, and how can you arrive at 21 cents; why do you say 21 cents any more than 15 cents or 40 cents or 60 cents? It is a mere guess, is it not?

A. It is a guess, yes, sir.

Q. Founded on nothing?

A. It is founded on the operating expense compared with the gross.

Q. What has the operating expense got to do with the 21 cents. You said that was interest on the investment, and you do not know what the investment is. The operating expense has nothing to do with it, has it?

A. No, not necessarily.

Q. As a matter of fact, Mr. Kennedy, while you are a man of very large experience as a consulting engineer in the erection of Steel Works, you do not claim yourself, do you, to be an expert on railroad rates?

A. No, sir.

Q. Mr. Kennedy, you were asked by Judge Dickinson with reference to competition in the Tube business of the country, and as to the percentage of the total tube business. Did you mean capacity or output that went into the Tube Company? You said 85 per cent?

A. Capacity.

Q. Will you be good enough to give me the names of the companies that had the 15 per cent capacity that did not go in?

A. I will have to refer to the memorandum.

Q. Very good. Take your memorandum.

A. (Referring to memorandum). A. M. Byers. I do not know just which ones of these stayed out. The Reading Iron Company. I am not certain whether the Longmead Iron Company went in or not.

Q. Well, did it go in or not?

A. I do not know whether it did or not. I think there are one or two others, but I cannot recall. It has been a long time ago and I have not charged my mind with these things.

Q. Mr. Kennedy, upon what did you base your opinion that 85 per cent went in, if you do not know what the ones were that stayed out?

A. Well, I only meant that 85 per cent as a guess, which has been in my mind in a general way. There were certain ones that did not go in and I cannot remember which ones they were exactly. It has been fifteen years ago. But I have had a kind of a feeling in the back of my head that that many went in, and it goes for what it is worth. You can easily arrive at that. I do not give that as anything accurate.

Q. That is what I wanted to get at. You are merely giving an impression?

A. Just an impression I have had. That is about the amount of it.

Q. Mr. Kennedy, since the organization of the Tube Company you have observed and been familiar with the tube business to some extent, have you not?

A. Somewhat.

Q. Being interested in the steel company generally. What tube companies are there now doing business in competition with the National Tube Company?

A. The Youngstown Sheet & Tube Company, the La Belle Iron Company, and the works at Wheeling, the name of which I do not exactly recall, and possibly some others. I do not know them all.

Q. What about Spang, Chalfant?

A. Spang, Chalfant are also running; and also Reading.

Q. Is not Spang, Chalfant a very large concern here in Pittsburgh?

A. Yes, sir, it is a fairly large concern. And A. M. Byers also.

Q. The Republic Iron & Steel Company?

A. Yes, sir; they also have a tube works.

Q. South Chester?

A. I do not know whether they are running or not.

Q. The Crane Company?

A. Crane, I think, made some small sizes. Alexander Laughlin has a small plate mill.

MR. DICKINSON: Of what period are you talking?

MR. SEVERANCE: At the present time.

MR. DICKINSON: Oh.

By MR. SEVERANCE:

Q. Mr. Kennedy, what would be your best estimate of the capacity of these tube works at the present time, outside of the

National Tube Works? What percentage of the whole would be represented by these outside concerns?

A. I could not tell you.

Q. It has increased, has it not, over the fifteen per cent?

A. Yes, I think undoubtedly.

Q. Are you aware of the fact, Mr. Kennedy, that at the present time the capacity of the National Tube Works is less than forty per cent of the entire capacity of the country, and that the outside concerns have sixty per cent or sixty-two per cent of the capacity?

A. No, sir, I was not aware that their capacity was as low as that.

Q. You would not feel inclined to dispute the statement would you?

A. No, I would not dispute it, because I do not know.

Q. Do you know, as a matter of fact, that the outside capacity has grown very much?

A. Very much, yes.

Q. And, so far as you know, these concerns are reasonably prosperous concerns, are they not? They have enlarged their works?

A. Yes; I think they have been pretty prosperous, most of them.

Q. Most of the time since the Steel Corporation was formed?

A. Yes.

Q. You stated, as I understood, when you were questioned with reference to pig iron that the prices of semi-finished material are based upon the price of pig iron to a large extent. That is true, is it not?

A. Yes.

Q. Consequently, when pig iron goes up, it is natural that steel should go up too?

A. Yes.

Q. And the reverse is likewise naturally the case, is it not?

A. Yes.

Q. It is also true, is it not, that when the price of bars goes up it is natural that black plate and tin plate should go up, and likewise the reverse when the price of bars goes down?

A. Yes.

Q. The one follows after the other?

A. Yes, sir.

Q. You testified in answer to Judge Dickinson that taking into account the organization, property—I cannot undertake to detail all the elements that went into his question; at any rate, you remember what they were—possessed by the Steel Corporation, it has the potential capacity to destroy its competitors. You answered that in the affirmative, as I understood you?

A. Yes, sir.

Q. Do you regard Jones & Laughlin of this city as a competitor of the Steel Corporation?

A. Yes.

Q. That concern is a competitor in nearly every line, is it not?

A. I judge it is. In a good many lines, at least.

Q. Do you not think it would be rather difficult for the Steel Corporation, no matter how energetic a campaign it put up, to destroy Jones & Laughlin?

A. Yes, it would probably be difficult. It would not be a forenoon's job.

Q. Do you not think it would be impossible?

A. No, I do not.

Q. Jones & Laughlin, you think, exist at the sufferance of the Steel Corporation?

A. Yes, sir.

Q. And you think the same of the Pennsylvania Steel Company, a majority of the stock of which is owned by the Pennsylvania Railroad, do you?

A. The Pennsylvania Steel Company might come in a little differently, on account of being nearer the seaboard.

Q. In your opinion, does the Pennsylvania Steel Company exist at the sufferance of the Steel Corporation? Do you not know that it does not?

MR. DICKINSON: Let him answer.

MR. SEVERANCE: I want him to answer.

THE WITNESS: I rather think it would not exist if the Steel Company really wanted the business.

By Mr. Severance:

Q. It would not?

A. No.

Q. Even taking into account the fact that a majority of the stock of that company is owned by the Pennsylvania Railroad, it would not be able to exist against the competition of the Steel Corporation, if that competition was exerted to the utmost; that is your opinion, is it?

A. No; if the Pennsylvania Railroad should make a special dispensation to help it, it might exist, yes, whether it could compete or not.

Q. You think that possibly the Pennsylvania Railroad has strength enough so that it could continue its steel business, possibly, do you?

A. Yes.

Q. Then you make an exception of that company, do you not?

A. Under those conditions, yes, but not in competitive conditions.

Q. You are aware also of the fact that the Pennsylvania Railroad controls the Cambria, are you not?

A. I have heard it rumored to that effect, yes.

Q. We will assume that it does, for the purpose of my question. Will you make an exception of the Cambria, and allow them to stay alive in spite of anything the Steel Corporation could do?

A. I do not think they could stay alive and compete.

Q. You do not think they could?

A. No.

Q. Even with the backing of the Pennsylvania Railroad they could not do it?

A. That would depend on the amount of backing. Anybody could stay alive if backed to the extent of being kept alive. I am speaking of competition.

Q. What did you mean by your answer that they could not stay alive if there was competition? Do you not know that there is competition now?

A. It is a mighty big question. I would hate to say whether there is or not.

Q. That is what I want to get at. In your opinion there is no competition now? Is that right?

A. I did not say that, no.

Q. What is your opinion as a steel man? Do you say there is no competition now existing between the Jones & Laughlin and the Cambria and the Pennsylvania and the Lackawanna on the one hand, and the United States Steel Corporation on the other?

A. I would like to have you define "competition" a little more closely.

Q. No, you are the witness. You have used the word. Tell me what you mean by it.

A. I mean by competition, able to meet the lowest price that your competitor can make.

Q. Is that all that competition involves, in your opinion?

A. No, it is not all, but that is one element.

Q. What are the other elements?

A. I do not know that I can tell you all the elements of it.

Q. That is all you can tell now, is it?

A. No, that is not all I can tell.

Q. I mean on that subject.

A. I suppose salesmanship goes into it, and all that sort of thing; and the quality of the goods comes in; but one very large factor is the ability to make a low price.

Q. Do we understand from you that the Steel Corporation can manufacture and market steel cheaper than anybody else?

A. I think so.

Q. How much per ton cheaper can they manufacture billets and market the same than any other concern?

A. I think at least a dollar a ton.

Q. What are the overhead charges of the Steel Corporation per ton as compared with Jones & Laughlin?

A. I could not tell you that.

Q. Is not that a very important element entering into the cost? How can you give an estimate of the difference of a dollar a ton if you do not know the difference in the overhead charges?

A. The overhead charges are an indefinite sort of thing. They do not always have to be——

Q. Is their salesmanship better than that of the independents, in your opinion?

A. No, I would not say that it was.

Q. Is it as good?

A. I should think it was.

Q. By the independents I mean these large concerns like Jones & Laughlin and the Pennsylvania. Are their goods superior in quality to the product of Jones & Laughlin or the Cambria and the Pennsylvania, the Lackawanna and others?

A. I do not know that they are.

Q. Are they about the same?

A. Possibly.

Q. Can they get out large orders more rapidly, so as to take large contracts?

A. Yes, I suppose they can a little.

Q. They are well located for the different markets, are they not, by reason of having plants in the West, as well as in the East?

A. Yes.

Q. That is an advantage, is it not?

A. Yes.

Q. The fact that Jones & Laughlin, and the Pennsylvania Steel Company are located in Pennsylvania, while the Steel Corporation owns an enormous plant at Gary and other plants in the vicinity of Chicago gives the Steel Corporation an advantage in the western territory, does it not?

A. Possibly.

Q. And that is a legitimate advantage, is it not?

A. Yes.

Q. That is an advantage that anybody could enjoy by constructing a plant in the same place?

A. Yes, sir.

Q. How does the cost of assembling raw materials and manufacturing pig iron and steel at Chicago compare with Pittsburgh?

A. I think it is a little higher, but I could not give you the exact figures.

Q. Why is it higher?

A. That is a question of transportation entirely.

Q. They have no transportation charges on ore from the lower lake port to the furnace in Chicago, have they?

A. No.

Q. They unload right at the furnace?

A. Yes.

Q. Then the ore is transported cheaper?

A. Yes.

Q. The tonnage of ore to a ton of pig iron is double or more that of coke, is it not?

A. About double.

Q. Then in what does this advantage of transportation consist, whereby Pittsburgh has the advantage over Chicago? Is it wholly in coke and coal?

A. In coke and coal, I suppose; yes, sir.

Q. Have you ever made any figures on that?

A. Yes, sir. I have; but not recently.

Q. Is the practice as good there now as here?

A. Yes, sir.

Q. You constructed a plant yourself out there for the Illinois Steel Company, did you not?

A. Blast furnaces; some years ago.

Q. Was it a good plant?

A. Yes.

Q. Was it well designed?

A. I hope so.

Q. You regard it as an advantage, do you not, up at least to the point where the metal cools, to have a corporation or company thoroughly integrated, from the ore to the billet; that is true, is it not?

A. Yes; more especially from the ore in the stockyard of the furnace to the billet.

Q. It is an advantage not to have the pigs cool, is it not?

A. Yes.

Q. To make it right into——

A. (Interrupting) Yes; to go from the ore in the stock-yard to the finished bar without allowing it to get cool.

Q. You regard it as an advantage, do you not, to have an ore supply?

A. Yes, but not in the same sense. Of course it is an advantage to have ore.

Q. Do you not think, as a business proposition—I am not asking you as a manufacturer, in the sense of a technical question, but as a business proposition—as a steel manufacturer, do you not think it is a very great advantage to anyone in the business to have his own ore supply?

A. Yes, I think it is.

Q. That is so regarded by all of the large manufacturers, is it not?

A. Yes.

Q. The Pennsylvania Steel Company have enormous supplies in Cuba, have they not, that they are bringing over from there?

A. Yes.

Q. And the Republic have ore on the range, and so has the Lackawanna; that is true, is it not?

A. Yes, sir.

Q. There is supposed to be a legitimate profit, is there not, in each step from the ore in the ground to the finished product which is put on the market?

A. Yes, sir.

Q. That is perfectly legitimate, is it not?

A. Yes, sir.

Q. If a man started out to make a complete business, and in an entirely legitimate way as a manufacturer, make the most he could in a proper way out of his business, the natural thing would be for him to have the ore, the means of transporting the ore, the furnaces, the steel mills and the finishing mills; is not that true? That is a legitimate succession of profitable business, is it not?

A. I would not consider it legitimate for him to own a railroad which was a common carrier. I do not think he should be allowed to do that.

Q. Yes. I read your testimony down in Washington. But

you stated a while ago that if the rates were no more than fair he would have no advantage over anybody else?

A. That is right.

Q. But we will have to assume that, because in this case we cannot try the question of rates. They try that question before the Interstate Commerce Commission.

MR. DICKINSON: I think we will try the question of rates here.

MR. SEVERANCE: I know you are trying to do it, but you cannot do it.

MR. DICKINSON: I think we will do it.

MR. SEVERANCE: You will have to get other witnesses than Mr. Kennedy.

By MR. SEVERANCE:

Q. I say, is not that a perfectly legitimate succession of businesses or processes, from the ore body to the finished product?

A. With the exception I named, yes.

Q. Suppose that instead of there being a railroad which is a common carrier, there was a railroad used only for the business of the company itself, like the little roads running down to the coast of Cuba, if there are such, and I believe there are; suppose then ships belonging to the company took the ore and brought it to the furnace, that would be a perfectly legitimate succession, right down?

A. Yes.

Q. And if you were establishing a business of that kind, you would want to have a perfect succession right down, if you wanted to have a large business?

A. No, under present conditions I do not know that would.

Q. Would you not, under any conditions, if you wanted to do the various kinds of business?

A. No, I do not know that I would. I do not know that I would worry much about having ore, under some conditions.

Q. You do not think you would, under some conditions? Well, is it not to be presumed, at least, that the possession

of ore and its sale in the market, is a perfectly legitimate business, from the fact that many men have engaged in it.

A. Yes.

Q. And if a concern owns its own ore, different kinds of ore in different mines, and is able to select and classify that ore and use that which is best for the purpose of the process at one time or another, is not that an advantage and a legitimate advantage?

A. Yes.

Q. You stated in answer to Judge Dickinson that both the Federal Steel Company and the Carnegie Steel Company were complete in and of themselves. That was your language, or in substance your language. Did the Federal Steel Company have finishing mills?

MR. DICKINSON: I do not think he stated that.

MR. SEVERANCE: I think he did.

MR. DICKINSON: I do not think he intended to state that. He did not say "complete;" he said they were largely integrated.

THE WITNESS: I said to a large extent. I said they ran through the heated material. They possibly did not have a full range of finishing mills.

By MR. SEVERANCE:

Q. What finishing mills did the Federal Steel have?

A. They had rail mills.

Q. What else?

A. I think they could possibly roll billets and possibly steel bars.

Q. Anything else?

A. I do not know just what they had.

Q. What did the Carnegie Steel Company have that the Federal Steel Company did not have?

A. I could not tell you exactly whether they had anything that the Federal Steel Company did not have. They made rails also and billets, and a good many other form of iron. They probably had a more complete line of structural material. I do not know just how they would compare on that. Both were what I understood to be integrated works, not

a works which buys its pig iron and brings it in and makes it into billets.

Q. Then, as a matter of fact, you did not intend by your answer to Judge Dickinson to give any opinion as to the extent to which they were similarly integrated?

A. Not exactly. I simply meant that they were large works, which started with the ore and ran through to a semi finished product at least, without letting the material get cold.

Q. What finishing mills they had, you do not know?

A. Not exactly, no.

Q. You said that a ten-mill tin plant could be operated as cheaply as a larger one?

A. Practically, yes.

Q. You do not consider that the overhead charge of running a mill is of any consequence?

A. The overhead charge on a ten-mill plant would be so near that of a larger one that it would become immaterial. There are some advantages in a smaller plant.

Q. You say that the overhead charge would be about the same. Then if you had a ten or twenty or a thirty-mill plant instead of a forty-mill plant, there would not be any advantage in a larger plant on account of the distributing of the overhead charge over a larger plant?

A. No, it would be about the same. If you have a ten-mill plant and a forty-mill plant, the only overhead charge you have to distribute is a comparatively small one.

Q. You would distribute the charge of transportation and distribution and management and general office expenses?

A. Yes, you would distribute those, but the experience, I believe, has been that that does not work out to a very large saving, not so much as it does in combining some other kinds of work; nothing like in proportion what it would, for instance, to combine a blast furnace and an open hearth plant so as to take the metal direct.

Q. Well, I did not have that in mind.

A. Probably not, but you are trying to get right down to a few cents difference.

Q. You did not make the statement as flat, then, as my

notes show you did, that a smaller plant could be operated as cheaply as a larger one.

A. There would be a few cents difference, but it would be a very trifling difference, which is often made up by oth things.

Q. You said that a fabricating plant did not necessarily need to be integrated, and that the size of a fabricating plant was not very important except in case of large structures.

A. Yes.

Q. Do you happen to know anything about the growth the outside fabricating plants in this country since the organization of the American Bridge Company?

A. No, I have not followed the statistics very closely.

Q. You know they have grown very much, do you not?

A. Yes, they have grown a great deal.

Q. You know, as an expert in the steel business, do you not, that the percentage of the construction by the American Bridge Company is vastly less now than it was at the time of its organization?

A. Yes, I think it is.

Q. The outside concerns have been prosperous too, have they not, as a rule?

A. I think they have been fairly prosperous. I do not know how prosperous.

Q. There have been a good many new ones established, and the old ones have very largely increased their facilities, is not that true?

A. I judge it is.

Q. That is not a business, if any one desired, which could be very easily monopolized, is it?

A. No, I do not think that would be very easy to monopolize.

Q. You said 30,000 or 40,000 ton fabricating works can be operated as economically as 100,000 ton works. What did you mean by that answer?

A. I was speaking of the works for fabricating buildings and bridges, and that sort of thing.

Q. That is, you meant that they could turn out a bridge

or a steel structure as cheaply from one of the small plants as from a larger one?

A. Yes.

Q. Is there not a very large increase in the business of structural construction over what existed ten years ago?

A. Undoubtedly.

Q. You mean steel structures?

A. Yes, sir.

Q. That is the favorite form of building now, is it not?

A. Yes.

Q. Of buildings as well as bridges?

A. Yes.

Q. Is it advantageous to have plants of that size scattered around through the country so that they can make quick delivery in case of large consumers?

A. I suppose there are some advantages in having plants in that way.

Q. You have already testified that a small plant in and of itself can be operated as economically as a large one?

A. Approximately so.

Q. Approximately so; and therefore if you would go into the business on a large scale, it would be an advantage to have a number of these moderate sized plants scattered in different localities?

A. Yes.

Q. Rather than to have one or two big plants in one place, would it not?

A. Yes.

Q. That is, in the fabricating work?

A. Yes.

Q. You know, as a matter of fact, do you not, that the American Bridge Company has plants in different parts of the country?

A. Yes.

Q. Through the West and the East?

A. Yes.

Q. That is a legitimate trade advantage, is it not?

A. Yes.

MR. SEVERANCE: You may examine, Judge Dickinson.

REDIRECT EXAMINATION.

By Mr. Dickinson:

Q. Mr. Kennedy, do you know whether railroad rates actually are made upon the basis of the cost of construction of the railroad?

A. No, they are not.

Q. What?

A. They do not seem to be made in that way, no.

Q. What science is there in making railroad rates? What is the controlling principle in it?

Mr. Severance: I object to that, as the witness has shown that he is not an expert in making railroad rates, and therefore is not competent to answer it. He has already stated that he is not an expert in that.

By Mr. Dickinson:

Q. Answer the question.

A. The making of railroad rates is governed by many considerations. For example, the making of railroad rates in this district is governed empirically. I have been told by railroad men that you could build a blast furnace anywhere from Brownsville to Newcastle Junction, and the rates would be such as would assemble the materials for the making of a ton of iron at exactly equal cost at each spot.

Q. You were asked if you knew certain features in respect to these two railroads of the United States Steel Corporation in Minnesota, and in connection with the question of rates. I will ask you if you also knew that the Duluth & Iron Range paid an average during that time of more than 100 per cent. dividend.

Mr. Severance: I object to that as leading, incompetent and immaterial.

By Mr. Dickinson:

Q. And that the Duluth, Misabe & Northern paid a dividend of 240 per cent.?

Mr. Severance: I object to that as leading, incompetent and immaterial.

A. I knew there were very large dividends, and had seen these figures, but it was some time ago and I could not have given them offhand.

By MR. DICKINSON:

Q. Taking your statement as to the cost of operation and the dividends as shown in the figures that I have given you, if those dividends were paid, would that enter into a consideration of whether or not 80 cents per ton was a reasonable rate per ton to charge during that period?

MR. SEVERANCE: Objected to as incompetent. The witness has said he is not an expert in making rates.

A. Yes, as a business proposition any railroad that can pay abnormally large dividends is evidently charging very remunerative rates. That does not require an expert, of course, to see that.

By MR. DICKINSON:

Q. Is that not considered a very large dividend to pay upon that property?

MR. SEVERANCE: The same objection.

A. Yes.

By MR. DICKINSON:

Q. Referring to the price of semi-finished product in its relation to the price of pig iron, suppose a concern was making pig iron and also selling their semi-finished product, would that concern or not be benefited by a rise in price of pig iron as compared with its competitors who were not making pig iron?

A. Undoubtedly.

Q. You were asked whether or not the U. S. Steel Corporation could put the Pennsylvania Steel Company out of business if the Pennsylvania Railroad Company backed it up. Were you contemplating that sort of a contest when you spoke of competitors, when you spoke of people in this same kind of business and whether or not they could sustain themselves if the United States Steel Corporation undertook to destroy them?

A. No. I had not contemplated any special support or anything of that kind.

Q. You were considering each of those concerns as a separate corporation, were you?

A. Yes sir.

Q. And the same way as to the Cambria?

A. Yes sir.

Q. Has or has not the Steel Corporation in the quest of business a very distinct advantage and power in the fact of its owning common carriers?

A. I think they have.

Q. You were asked whether or not you would want the ownership of ore, and you said that under certain conditions you would. What were those conditions that you had in mind; what are the conditions bearing upon the question as to whether or not it would at this time be necessary or unnecessary to own the ore, and what has produced those conditions?

A. If a person was sure that there would always be ore to be obtained in the market it would be an open question whether he should own ore or not, but if it is very likely that a few interests will succeed in getting hold of practically all the ore, then it is very important for anyone going in to have his ore reserved before he goes in.

Q. What is the condition now with respect to ore and new enterprises going in and getting ore? What are their opportunities for doing so?

MR. SEVERANCE: Objected to on the ground that the witness has not qualified himself to testify as an expert on ore or the ownership of ore.

By MR. DICKINSON:

Q. You state that you have been interested in ore in the Lake Superior region, do you not?

A. To a small extent, through holdings.

Q. Do you know in a general way whether or not the ore in that region is all held in large quantities by various corporations?

MR. SEVERANCE: Objected to as incompetent, and no foun-

dation has been laid for asking the opinion of this witness on this subject.

MR. DICKINSON: I am not asking an opinion. I am asking what he knows.

MR. SEVERANCE: He cannot know it at first hand—

MR. DICKINSON: Read the question.

MR. SEVERANCE: Pardon me for a moment. I am going to make my objection.

MR. DICKINSON: I do not object to your objecting.

MR. SEVERANCE: You seem to.

MR. DICKINSON: No, not at all.

MR. SEVERANCE: Give me a show. In addition to the objection as stated, I call your attention to the fact that the witness has testified that he has only made two or three visits to the ore region of Lake Superior and has made no visits there within the last five years, and he has not shown that he knows anything about the recent developments or discoveries, and has not qualified himself to give an answer to the question.

THE WITNESS: I know, in a general way.

MR. DICKINSON: Please repeat the question.

(The stenographer repeated the question as follows):

"Do you know in a general way whether or not the ore in that region is already held in large quantities by various corporations?"

A. As I say, I know in a general way, from the public press and other sources of information.

By MR. DICKINSON:

Q. Is the Lake Superior ore the basis of the steel production in the Pittsburg District?

A. It is

Q. Is the bulk of that ore controlled or is it upon the market?

MR. SEVERANCE: I make the same objection. The witness has already stated in answer to what I said in my previous objection that all he knows about it is from the public press, and Judge Dickinson knows that that is not evidence.

MR. DICKINSON: The Court can pass on that.

MR. SEVERANCE: It is interesting, but not evidence. Mr. Reed suggests in addition—

MR. DICKINSON: I will withdraw that question.

MR. SEVERANCE: Then the objection is withdrawn also.

By MR. DICKINSON:

Q. Were you present when Mr. Gary was examined by the Stanley Committee?

A. No, I was not.

Q. You did not hear his examination?

A. No.

Q. When the American Bridge Company was formed what advantage or disadvantage was there in absorbing and combining the various companies that it did, located as they were, over building at the same places plants of the same capacity as those which they took in at those several places?

A. The building of other plants would have left competitors in the field, as compared with buying up the present plants.

Q. Taking up the present plants—did that have the effect of giving them the field for the time?

A. For a while, pretty largely, yes.

MR. DICKINSON: It is now a few minutes of our adjourning time, and I would like to look over this memorandum of Mr. Kennedy before I question him about it. I may go on with him in the morning. We will therefore ask that an adjournment be taken at this hour.

(Thereupon, at 4:30 o'clock p. m., an adjournment was taken until tomorrow, Thursday, October 3, 1912, at 10:30 o'clock a. m.)

TWENTY-FOURTH DAY.

Room 309, Federal Building,
Pittsburgh, Pennsylvania,

October 3, 1912.

The hearing was resumed at 10:30 o'clock a. m., before Special Examiner Henry P. Brown.

Present on behalf of the United States, Mr. Dickinson, Mr. Colton and Mr. Corneau.

Present on behalf of the defendant, Mr. Lindabury, Mr. Severance, Mr. Bolling and Mr. Reed.

JULIAN KENNEDY,

the witness under examination when the adjournment was taken, resumed the stand for further

RE-DIRECT EXAMINATION.

By Mr. Dickinson:

Q. Mr. Kennedy, here is a paper which I show you, entitled "Agreement between vendors and William Nelson Cromwell and Edmund C. Converse, consolidation purchasers, dated February——, 1899." State whether or not you identify that document.

A. I do.

Q. Have you had it in your possession and brought it here at our request?

A. Yes.

Q. State when you received it, and from whom and in what connection.

A. Either from Mr. Cromwell or Mr. Converse, just prior to making the appraisements of the tube works.

Q. In connection with that employment?

A. In connection with that.

MR. DICKINSON: We offer this in evidence, and ask that it be marked as a Government exhibit.

(The document referred to was marked Government Exhibit No. 138, October 3, 1912.)

RE-CROSS EXAMINATION,

By MR. SEVERANCE:

Q. Mr. Kennedy, there are a very few questions I neglected to ask you yesterday, and with Judge Dickinson's permission I will ask them now, although they are not strictly re-cross examination.

You stated yesterday that the National Tube Company, in your opinion, took over about 85 per cent of the plants of the country.

A. Yes.

Q. You recall that fact now?

A. Yes.

Q. You testified as a witness before what is known as the Stanley Committee, did you not, in Washington?

A. Yes, sir.

Q. That was a committee that was investigating, or purported to be investigating, the United States Steel Corporation. I find your testimony reported in parts No. 57 and 58 of the proceedings of that committee. I notice that at page 5079 you were asked with reference to the percentage of the tube companies, and you said that you would have said that it was 90 per cent, but that you would not be positive. In the afternoon of the same day, at page 5129 of the record of that committee, I will ask you if you did not testify as follows:

"By the way, I want to make one little correction. I estimated this morning the amount that went into the combine at 90 per cent. I have since that time thought about the Reading plant and possibly one or two others I omitted, and my estimate was probably large. Possibly 75 per cent or 80 per cent is more nearly correct."

Did you so testify?

A. Yes, sir.

Q. Is that so, do you think?

A. I think about from 85 to 90 per cent is about correct.

Q. You switched after testifying that way originally?

A. Yes, that is my opinion from looking it over since. Those estimates were made without being carefully considered, and as I remarked at the time, were very crude estimates. I noticed since that time that in the circulars which were put out in connection with the consolidation, the tube people themselves considered it about 90 per cent. Of course that is very indefinite.

Q. The Byers Company did not go into this?

A. No, sir.

Q. Do you know what their capacity was?

A. No, I do not know.

Q. It was ten furnaces, was it not?

A. Possibly. We did not examine that.

Q. About 100,000 tons capacity?

A. I should say so.

Q. The Crane Company had two furnaces that did not come in?

A. We did not examine that.

Q. You know of the existence of that?

A. I know of the existence of it.

Q. The West Jersey Tube Works, Philadelphia, did not come in?

A. No.

Q. They had a tube plant, did they not?

A. I do not know; but I do not know that they did not.

Q. You know of the Conshohocken Tube Works?

A. Yes.

Q. They had two furnaces?

A. Yes.

Q. With 30,000 tons capacity?

A. Nominally; but that was a very old and decrepit plant.

Q. They did not come in, you know that?

A. Yes.

Q. The Monongahela Tube Company, at Wilson, Pennsylvania, you know that?

A. Yes.

Q. They did not come in?

A. No.

Q. You knew of them?

A. Yes; I have heard of them.

Q. You know that that plant did not go into the National Tube Company?

A. I presume it did not. I could tell by looking over the list.

Q. The Reading Iron Company had seven furnaces?

A. We did not examine that, but I presume that may be correct.

Q. With about 95,000 tons capacity, Spang, Chalfant & Company had five furnaces, did they not?

A. Yes, I should judge about that.

Q. They did not come in?

A. No.

Q. The Tyler Tube & Pipe Company, at Washington, Pennsylvania, had four furnaces?

A. We did not examine that.

Q. You knew they did not come in?

A. Yes, I knew of that.

Q. Do you pretend to say that that whole list I have read to you constituted only ten per cent, or even fifteen per cent, of the tube capacity of this country?

A. I do not think it constituted over fifteen per cent at that time.

Q. You do not think it did?

A. Some of those had not been running for some time before that.

Q. We will consider that later. Then, as I understand your testimony now, it stands this way, that in the first place you testified before the Stanley Committee that it was 90 per cent, then you voluntarily changed that to 75 or 80 per cent, yesterday morning you made it 85 per cent, and this morning you have gone back to 85 or 90 per cent; is that right?

A. No, I did not make it anything. I simply explained that that was an estimate not made by careful figuring, with plenty of time to go into it; and I have no doubt you can find that out much better from other sources than I can give it from memory.

Q. You testified yesterday that in your opinion, or guess, I think you finally said, 45 cents a ton would be a fair rate on ore from the Mesabe Range to the lake ports. When you testified before the Stanley Committee you made a guess of 40 cents, did you not?

A. Yes.

Q. For the same service?

A. Yes.

Q. You also testified yesterday that in your opinion the Steel Corporation could manufacture billets at least a dollar a ton cheaper than any of its competitors, did you not?

A. Yes, sir.

Q. That dollar a ton did not arise because of any cheaper practices at the furnaces, did it, or the mills?

A. I figured that from the advantages in transportation solely.

Q. Solely?

A. Solely; yes, sir.

Q. And you figure that advantage, and base it, upon your opinion as to what the extent of the unfairness of those freight rates is, do you not?

MR. DICKINSON: You mean is now, or was?

MR. SEVERANCE: Is or was, either one. That question is rather awkward and perhaps you do not understand it, and I do not blame you if you do not. I will put it over again.

By MR. SEVERANCE:

Q. You have stated what you regard as a fair rate. You have also stated what the rate is that is charged; and you have stated that because of the fact that the Steel Corporation ships at a cost to it ultimately, although it is to one of its subsidiaries, at what you regard as a fair rate, while the competitors of the Corporation pay the higher rate that is

published and charged, you regard that as an advantage that the Steel Corporation has over its competitors?

A. Yes.

Q. And it consists only in that, as you have just stated?

A. That is the only advantage I was speaking of. It may have other advantages.

Q. That is the only one you know of?

A. Possibly it has others that I know of, but that is the one I was speaking of.

Q. That is the one you had in mind when you said it would be able to manufacture cheaper and could put its competitors out of business?

A. Anyone in a business who has an inside hold on the transportation has that much advantage of its competitors, and can put them out of business.

Q. Now let me go a little further. If, as a matter of fact, you are mistaken in your estimate as to what is a fair rate, and assuming that the present rate that is charged is only a fair compensatory rate, the Steel Corporation has no advantage, has it?

A. No.

Q. On the other hand, assuming that you are right in your estimate as to what would constitute a fair rate, and if upon application to the Interstate Commerce Commission it should be developed that you are right and the rate be reduced to the figure that you have named, then and thereafter the Steel Corporation would not have any advantage, would it, beyond a fair one? That necessarily follows, does it not?

A. That necessarily follows; so far as the freight is concerned.

Q. So this ability to put competitors out of business because of being able to produce steel cheaper than they can produce steel, arises wholly from your opinion as to the excessive charges made for transportation of the raw materials; that is true, is it not?

A. Yes, that is true. I would like to qualify that just a little, the statement that it is true, to the extent of the transportation; if the Steel Company could hold a dominant

power in a number of large railroads they might get advantages in selling rails and that sort of thing.

Q. Well, that is purely speculative, is it not—if they could—that is speculative, is it not?

A. It is speculative, of course.

Q. You would not imagine that as long as the Pennsylvania Railroad owned the control of the Cambria and the Pennsylvania Steel Company that the Steel Corporation would dominate the sale to that road or its allies, would you?

A. The Steel Corporation sells the Pennsylvania Railroad a lot of rails.

Q. They sell the Pennsylvania Railroad, and the Pennsylvania Steel Company sells other railroads, does it not?

A. Yes.

Q. As a matter of fact, do you not know from your experience as a steel manufacturer, that the steel rail consumption by the different roads over the country is divided up among the different steel manufacturers who are in a position to furnish the product?

A. I judge it is all divided up on a percentage basis among the different works, yes.

Q. Well, the matter of territory is important, is it not? The roads west of Chicago naturally get their rails from West of Chicago or the Chicago mills or the Colorado Fuel and Iron Company to a large extent, do they not?

A. I judge so, yes.

Q. That is their natural territory?

A. Yes.

Q. And the natural territory of the Pittsburgh mills is in the east, is it not?

A. Yes.

Q. Is there any railroad that you can name to which, take it year in and year out, the Steel Corporation furnishes any larger percentage of the rails consumed by that road than the percentage of the tonnage of the Steel Corporation bears to the total tonnage in the way of steel rails produced?

A. I do not know, but there naturally must be some where it would be slightly greater. It would be physically impossible to distribute the rails from the corporation to the dif-

ferent railroads so that every company would get the same ratio.

Q. But you do not know any road that has the practice of preferring the Steel Corporation over the other rail makers in the same territory, do you, year in and year out?

A. No; I do not think there is any effort on the part of the Steel Corporation to have them do so.

Q. Then all you suggested by way of inference was purely speculative, was it not, that is something that might happen if something else happened. That is, if somebody had influence enough upon somebody else to get that other person to get the railroad company to give the Steel Corporation more orders—that is about all there is to that?

A. No; I do not think they could take any more business.

Q. You were called before the Stanley Committee as an expert, were you not?

A. No, sir.

Q. And were you not paid as an expert?

A. No. Nor am I by this investigation.

Q. I understand you are not called as an expert here, but you were paid as an expert by the Stanley Committee, were you not?

A. No.

Q. Did you just receive a dollar and a half a day, or whatever the ordinary witness fee was?

A. I have never been paid anything. I suppose I was entitled to a dollar and a half a day.

Q. If Mr. Stanley thought he employed you as an expert he was mistaken, then?

A. I do not think he thought that. He subpoenaed me and I came.

Q. Is it not a fact, to revert to the question of the tube company again, about which you testified, that since the Steel Corporation was organized, the price of tubular goods has very largely decreased in the market?

A. As compared to the price prior to the consolidation of these tube plants?

Q. No; as compared with the price at the time the Steel Corporation was organized, in April, 1901.

A. I think very likely it has.

Q. There has been a very substantial decrease in price, has there not?

A. Possibly.

Q. How much a ton?

A. I would have to go back through the files of the Iron Age to tell that.

Q. Would you not say $15 at least?

A. I do not know. It would be easy to ascertain that. The Iron Age will show that.

Q. Then the existence of the National Tube Company as a subsidiary of the Steel Corporation has not resulted, has it, in the imposition of higher prices upon the public for tubular goods; but, on the contrary, the price has gone down during that time?

A. It may have gone down from a price which may have prevailed at that time, the amount of which I do not remember.

Q. You are pretty familiar with the business, are you not?

A. Oh, I can not remember prices back that far.

Q. Is not the price now lower than in 1901 or 1902 either one?

A. I think very likely, because a good many outside works have grown up since that time. Just after the formation of this tube combination there were not many concerns.

Q. Has the competition that has existed among manufacturers brought down the prices?

A. I think it has, yes, sir.

REDIRECT EXAMINATION.

By Mr. Dickinson:

Q. You were asked about an opinion you gave in regard to the ability of the United States Steel Corporation to make billets a dollar a ton cheaper than their competitors, and as to what elements entered into that in your judgment, and you stated the question of transportation. Now, in connection with your answer that you made as to the power of the United States Steel Corporation to put its competitors

out of business, I will ask you whether or not the question of interlocking directors, directors in that corporation being also directors in railroads and banking institutions, and directors in concerns that consume the products made by the United States Steel Corporation and their competitors would, in your judgment enter into that problem.

MR. SEVERANCE: I object to that as not a correct statement of the question that was put to him on the cross examination. It is entirely foreign to the question that was put to him on his cross examination. It is leading, incompetent and immaterial, and not based on any evidence in the record. It suggests a reason which the witness did not give for his opinion.

MR. DICKINSON: I will ask the stenographer to repeat the question.

(The stenographer repeated the question as above recorded.)

MR. DICKINSON: Answer that please.

A. I think not to any great extent, into the problem of making material cheaper than their competitors. If it entered at all it would be rather more in the selling end.

By MR. DICKINSON:

Q. I mean to ask you on the general proposition, the power of the United States Steel Corporation, if it undertook to do so, by reason of its potentiality to put its competitors out of business.

MR. SEVERANCE: I object to that as incompetent and immaterial. There is no evidence in the record upon which this question can be based. It is purely speculative. The witness has not qualified himself in any respect to give an opinion on the subject. It is not a subject for expert testimony.

MR. DICKINSON: The petition alleges, and the answer admits, that directors of the United States Steel Corporation are directors in numerous banks and railroads and concerns that consume steel products. So I think that the statement of counsel as to that is in error.

MR. LINDABURY: Three directors in two railroad companies

if I recall it. There is nothing about banks or any other kind of a corporation.

MR. DICKINSON: Now, answer the question.

THE WITNESS: What is the question?

(The question was repeated by the stenographer, as follows):

"I mean to ask you on the general proposition the power of the United States Steel Corporation, if it undertook to do so, by reason of its potentiality to put its competitors out of business."

A. What I had in mind in saying that the Steel Corporation could put its competitors out of business if they so willed was their ability, due to their favorable position with reference to transportation to produce material, other things being equal, cheaper than their competitor's could. This would enable them if they so desired to legitimately put other people out of business in adverse competition if it may be so termed. In regard to the effect of interlocking directors; I do not know that I am specially qualified to speak more than any other intelligent man.

By MR. DICKINSON:

Q. Mr. Kennedy, you were asked as to the difference between a reasonable and unreasonable rate and its effect. I will ask you whether or not the railroads of the United States Steel Corporation have an advantage which accrues to them by reason of the division of rates of other roads?

MR. SEVERANCE: I object to that on the ground that the witness has not shown that he knows anything about the divisions and it is incompetent and immaterial under the pleadings.

A. I do no know the division.

By MR. DICKINSON:

Q. You were asked about the prices after the Corporation was formed in 1901 in respect of tubular goods. I will ask you whether or not, following the formation of the tube company there was an increase or a decrease in the price of tubular goods.

A. My recollection is that there was a very large increase following that.

Q. To what do you attribute that?

A. To the fact of the tube works getting together.

Q. And doing what?

A. Ceasing to compete with each other in the matter of price, as they had been before.

By Mr. Severance:

Q. Mr. Kennedy, you testified yesterday that the price of steel followed the price of pig iron, did you not?

A. In many cases it has been customary to sell certain lines of steel in future, based on the price of pig iron at that time.

Q. Judge Dickinson drew that out from you yesterday.

A. It does not always follow mathematically the price of pig iron.

Q. Is it not a fact that the year after the incorporation of the National Tube Company there was a great boom in all the iron and steel industry, and the price of pig iron rose very rapidly during that year, and the price of steel rose very rapidly during that year?

A. Yes; I think probably it did.

Q. Is it not a fact that the pig iron market was an open market, and there was no one dominating the manufacture of pig iron?

A. At what time?

Q. At that time; at the time of the organization of the National Tube Company?

A. No, I think not.

Q. And the price, by reason of the tremendous expansion that took place after the long depression that had existed for a number of years during the 90's, carried the price of all iron and steel products up very rapidly, did it not?

A. I think likely, yes.

Q. And that was coincident with this rise in the tubular goods, was it not, for the same year?

A. It may have been the same year. I do not remember. My impression is that it was not exactly coincident with it.

That could be found out by consulting the files of the Iron Age also.

Q. Mr. Kennedy, since the organization of the Steel Corporation you have invested your money in outside steel plants, have you not?

A. Yes, sir.

Q. You have not been fearful of being wiped off the earth, have you?

A. No, sir.

By MR. DICKINSON:

Q. Mr. Kennedy, you were asked about the rise in prices in pig iron in the period following the formation of the National Tube Company. I will ask you whether or not that rise in pig iron and in iron products had not been preceded, only a short time, by the formation of the Federal Steel Company, the American Steel & Wire Company, the National Steel Company, the American Tin Plate Company and the American Sheet Steel Company.

A. Yes. All these companies had been formed not very long before this time.

Q. Did these companies, or not, bring under their several combinations and control concerns that before that time had been competitors of each other in the market?

A. Yes.

MR. DICKINSON: That is all.

By MR. SEVERANCE:

Mr. Kennedy, there was a great depression in the steel business that began about 1892 or 1893, was there not?

A. There was a great depression. I cannot remember the exact date. Possibly it was about that time.

Q. Would you say it was about that?

A. I think probably it was about then. I am not good at remembering dates that far back.

Q. That depression lasted for a period of four or five years?

A. Yes.

Q. Then that was succeeded by a great revival of business, was it not, in all branches?

A. Yes.

Q. Regular boom times? That is true, is it not?

A. I think so; yes, sir.

Q. Those boom times were not caused by the organization of the Tube Company or any of these other companies that you have mentioned in answer to Judge Dickinson, were they? That did not create general prosperity that swept over the country, did it?

MR. LINDABURY: Or perhaps it did?

THE WITNESS: It may have helped a little to start it. I think it did, possibly, help a little to start it.

By MR. SEVERANCE:

Q. It would be very little?

A. That is hard to tell.

Q. As a matter of fact, the supplies of manufactured goods of all kinds had been pretty well consumed during those hard times; people were afraid to buy, and then there was a more or less sudden revival, until times began to be very, very active?

A. Yes.

Q. And coincident with that activity was this increase in the price of pig iron which was not controlled by any of these companies, and steel and steel products? Is that true?

A. It is true there was a rise in pig iron at that time. I do not know how much it was controlled by these companies, or how much they worked in concert. They were not entirely segregated or hostile companies to each other, as I remember it, at the time.

Q. There were a great many manufacturers of pig iron who were not manufacturers of steel, were there not?

A. Yes, sir; there were a number of people who made foundry iron.

MR. SEVERANCE: That is all.

By MR. DICKINSON:

Q. You were asked whether, about this time, there was a

boom in the iron and steel business. I will ask you whether or not, following these several combinations, there was not a boom in prices.

A. Yes, as I remember it, there was.

Q. I will ask you further whether this increase in prices did or did not grow out of the combination of concerns which hitherto had been competitors.

MR. SEVERANCE: If you know. I object to that as purely speculative.

MR. LINDABURY: He has already answered that it grew out of the general conditions of prosperity. Of course it does.

MR. DICKINSON: There may have been more than one element. I do not think it is proper for counsel to argue with the witness when I ask a question. I object to that.

MR. LINDABURY: I appeal to you, Judge——

MR. DICKINSON: You can enter an exception, Mr. Lindabury, if you desire to do so, but as for arguing with the witness before he answers, I object to that as improper examination.

MR. LINDABURY: I object to the question. When you ask a man to testify to a thing like that, you discredit him, and I think, the case.

MR. DICKINSON: I object to that—to stating to the witness that he will be discredited by his answer. That is calculated to influence the witness, and to hold it over him as a threat. I think counsel have a perfect right to enter their objections, and to get the benefit of those objections. If I have asked an incompetent question, I lose the benefit of it; but when it comes to warning the witness as to his answers, I do not think it is proper, and I must except.

(By request, the stenographer read the question pending as follows:)

"Q. I will ask you further whether this increase in prices did or did not grow out of the combination of concerns which hitherto had been competitors."

THE WITNESS: Undoubtedly, to a very large extent.

MR. DICKINSON: That is all.

By MR. SEVERANCE:

Q. At the time that the United States Steel Corporation was formed a couple of years had elapsed, had they not, after the organization of these other companies you have mentioned?

A. Some time had elapsed. I judge about that.

Q. Beginning with the organization of the Steel Corporation there has been such an expansion in the competitors of these various companies, making different kinds of steel products, and such competition has existed that, at the present time, the outside capacity in all lines is vastly greater than it was in April, 1901, when the Corporation was organized, and the prices of the products are lower than they were at that time? Is not that true?

MR. DICKINSON: Do you mean the present time?

MR. SEVERANCE: Yes.

MR. DICKINSON: And not the time of the formation of the Corporation?

MR. SEVERANCE: The present time. I am speaking of the date of the formation of the Corporation, as compared with the present time.

(By request, the stenographer repeated the question pending as follows:)

"Q. Beginning with the organization of the Steel Corporation there has been such an expansion in the competitors of these various companies making different kinds of steel products, and such competition has existed, that, at the present time, the outside capacity in all lines is vastly greater than it was in April, 1901, when the Corporation was organized, and the prices of the products are lower than they were at that time? Is not that true?"

THE WITNESS: There has been a vast expansion of the steel industries. They have considerably more than doubled, I think, in that time. But whether it has been due to extreme competition or not, I would not feel so confident about.

By MR. SEVERANCE:

Q. I was not asking whether the competition induced the expansion.

A. I took it that way, from the question.

Q. No, that is not the way my question was intended to be put, Mr. Kennedy.

A. Please let me have it read again, then, to see that I understand it exactly.

Q. I will put it again, in a little different form, so that you will understand it.

As you have just testified, there has been a great expansion in the tonnage, output or capacity of the steel plants of the country since 1901, outside of the plants owned by the United States Steel Corporation; the competition between those outside plants and the Steel Corporation has resulted, in most of the products, in a reduction of price, has it not?

MR. DICKINSON: Are you asking a question now?

MR. SEVERANCE: Yes. I ended up by saying "has it not?" I will add to the question: "Not in every line, but in most lines."

(The stenographer read the amended question as follows:)

"Q. As you have just testified, there has been a great expansion in the tonnage, output or capacity of the steel plants of the country since 1901, outside of the plants owned by the United States Steel Corporation? The competition between those outside plants and the Steel Corporation has resulted, in most of the products—not in every line, but in most lines—in a reduction of prices, has it not?"

THE WITNESS: There has undoubtedly been a reduction of prices as compared with the high peak price which prevailed about 1901.

By MR. SEVERANCE:

Q. Was the price of 1901 as high as in 1899, in tubular goods?

A. I do not remember that. It could be found out from the Iron Age.

Q. You spoke of the peak price. Do you happen to know what the peak price was in 1901?

A. I do not know exactly; but there was a very high peak price along about that time.

Q. Was it not earlier than that?

A. Possibly it was a little earlier than that.

By Mr. Dickinson:

Q. Mr. Kennedy, you were asked about the time of the formation of the Corporation in 1901. I will ask you whether or not, under that combination, there were brought under one control concerns some of them which at that time and previously thereto had been competitors of each other in the iron and steel business.

A. Yes; there were.

Q. State whether or not at that time the Federal Steel Company was a competitor of the Carnegie Company in interstate commerce.

A. Yes; it was.

Q. State whether or not the Federal Steel Company and the Carnegie Company were competitors with the National Steel Company in interstate commerce.

A. Yes, sir.

Mr. Dickinson: That is all.

Mr. Severance: I have no further questions.

JOSEPH SIDNEY SEAMAN,

a witness called by and on behalf of the United States, having been first duly sworn, testified as follows:

DIRECT EXAMINATION,

By Mr. Corneau:

Q. What is your full name, Mr. Seaman?

A. Joseph Sidney Seaman.

Q. What is your business?

A. Manufacturer of rolls.

Q. Under what name? What is the name of your concern?

A. The Seaman-Sleeth Company.

Q. Were you connected with that company in 1898 and 1899?

A. Yes, sir.

Q. Do you recall whether or not at about the time of the organization of the American Tin Plate Company, which was in December, 1898, your company entered into a contract with the American Tin Plate Company with reference to the furnishing of material to the latter?

A. Yes, sir.

Q. You were subpoenaed to produce that contract, were you?

A. Yes, sir.

Q. Have you it? I am speaking of the contract of 1898 or 1899.

A. I have not got that contract.

Q. You have not?

A. No, sir.

Q. You have looked for it?

A. Yes, sir. I do not know whether I ever had a contract of that kind. There was a contract. Of that I am satisfied, but I do not know that I ever had a copy of it.

Q. Your company was a party to it, as I understand?

A. Yes.

Q. Did you have to do with the negotiations leading up to it?

A. Somewhat, yes.

Q. Where were those negotiations held?

A. Principally in Chicago.

Q. And with whom?

A. With the American Tin Plate Company. I do not know as I can recall the members, except Mr. Reid, who was then president, and some of the others.

Q. That is Mr. D. G. Reid?

A. Yes, sir.

Q. Can you tell me, in a general way, Mr. Seaman, what the provisions of that contract were, as finally executed?

MR. REED: You had better show first that he read it, had you not, Mr. Corneau?

MR. CORNEAU: I understood him to say that he had seen it. Perhaps I did not ask him that.

By MR. CORNEAU:

Q. Were you familiar with the contract at the time?

A. I was; with the contents of it. But I cannot recall ever reading it or seeing it.

MR. REED: I object to that, as hearsay.

By MR. CORNEAU:

Q. You were familiar with what your company did in the matter of carrying out the contract, were you?

A. Yes, sir.

Q. Will you just tell us what you did?

A. All we did was we agreed to manufacture rolls for the American Tin Plate Company and, I think, the American Sheet Company, both at the same time; although I had only the arrangements with the American Sheet Steel Company; but the agreement was—

MR. REED: Mr. Seaman, you were not asked what the agreement was. You were asked what you did under it.

THE WITNESSS What we did under it?

MR. REED: Yes, sir.

THE WITNESS: We manufactured rolls for the two concerns.

By MR. CORNEAU:

Q. Did you manufacture rolls for any other concerns?

A. Not that kind of rolls.

Q. I mean rolls for tin plate.

A. Not for tin plate or sheet steel.

Q. You mentioned sheet steel. I have not yet specifically asked about that. There was a similar contract with the American Sheet Steel Company, was there?

A. I so understood it.

Q. And you have not that contract at the present time either, have you?

A. No.

Q. I mean, the first one.

A. The original? No, I have not.

Q. Was it your understanding, as an officer of the Seaman-Sleeth Company, that these contracts, both of them, as executed, forbade you from manufacturing the sort of rolls provided for in those contracts for new concerns?

MR. REED: That is objected to as hearsay, and as not the best evidence of the contents of the contract. It is objected to, further, because the witness has admitted that he has no recollection of ever reading the provisions of the contracts.

(By request, the stenographer repeated the pending question.)

THE WITNESS: Yes, sir.

By MR. CORNEAU:

Q. You stated, Mr. Seaman, that you were familiar with the negotiations for the contracts?

A. Yes, sir.

Q. The contracts were subsequently drawn, were they not?

A. Yes, sir.

Q. And they were executed by your company, or by some one in behalf of your company?

A. Yes, sir.

Q. State whether or not, as an officer of your company, it was your understanding that the contracts were drawn along the lines of the negotiations, and embodied what had been negotiated.

MR. REED: Objected to as hearsay.

By MR. CORNEAU:

Q. You may answer.

A. I was familiar with the contents of that, so much so that I signed the contract for our company.

Q. I see. Then will you please tell me what was in the contract?

MR. REED: Which contract are you speaking of?

By MR. CORNEAU:

Q. Which one were you speaking of, Mr. Seaman?

A. I was speaking of the general contract, as I understood it to be, between the American Tin Plate Company and the American Sheet Steel Company. I understood it was one and the same thing.

MR. REED: You have not yet shown which one he signed. You spoke of two contracts. He said he had never read either of them. Now he says he knew them and signed them.

MR. DICKINSON: He says he knew the contents of them.

THE WITNESS: I knew the contents.

MR. DICKINSON: He could not know the contents without reading them or having them read to him.

MR. REED: You have not shown that.

MR. DICKINSON: He said he knew the contents.

By MR. CORNEAU:

Q. Did you state whether you signed both contracts?

A. No, sir; I did not say. I do not know whether there were two contracts. I believe I stated I thought that the one contract covered both companies.

Q. I see; and you signed at least one contract, did you?

A. Yes.

Q. And if there were two, you signed both of them?

A. Very likely. I do not remember it, however.

Q. Now, will you state just the substance of the agreement?

MR. REED: Objected to as incompetent, and until the manner in which the witness acquired his knowledge of the contract has been shown by the Government, he having testified that he did not read the contract, this testimony would be improper.

By MR. CORNEAU:

Q. Now, answer the question.

A. My knowledge of the contents of that contract I got in this way. A number of us were together in a room and it was discussed and read, a number of times, and from that I got the information of what the contents of it were.

Q. Now, will you briefly state to us the substance of it?

A. Well, stating it briefly, the fact is this: That the American Tin Plate Company and the American Sheet Steel Company, as I understand it, agreed to give us all their rolls. I am speaking now of rolls only. There are others that contained roll machinery. I am not in that at all.

MR. LINDABURY: All the orders for rolls, you mean?

A. (Continuing) Yes; all the rolls they might require during a term of three years, I believe it was; for which they gave us a bonus, a certain amount, which I can show, and we were to make no rolls for any new mills that would be built in the future.

By MR. CORNEAU:

Q. Can you tell me, Mr. Seaman, who were the other machine concerns in this arrangement?

A. I have got the list of them here.

Q. Please give us those.

A. Here is the list. Seaman Sleeth Company, A. Garrison Foundry Company, Lincoln Foundry Company, Totten & Hogg Iron & Steel Foundry Company, Lewis Foundry & Machine Company, the Mesta Machine Company, Frank-Kneeland Machine Company, Chilled Roll Foundry Company, Lloyd-Booth Company, Youngstown Foundry Company, Riverside Foundry Company and the Avonmore Foundry & Machine Company.

Q. Did you mention McIntosh, Hemphill & Company?

A. They are not in this agreement. They are machine builders exclusively.

CROSS EXAMINATION,

By MR. REED:

Q. Where did you get that list that you have just read from?

A. This is a contract.

Q. That was some subsequent contract, was it?

A. Yes sir. This is the individual contract, and there was a general contract.

Q. That is a contract for filling some of their orders, is it?

A. No, this is a contract made with my firm personally, and I think everyone of those I have mentioned got a similar contract.

Q. Did that contract have a list of these other firms in it? Please let me see that, if you will.

A. Yes. (The witness handed the contract to Mr. Reed.)

Q. As you remember these contracts, they did not prevent your selling to outside concerns who were then in the tin plate business, did they?

A. I think they did. I do not know that. I do not remember that part of it.

Q. Do you not remember that they left you perfectly free to make rolls for concerns that were then in the tin plate business, like Whittaker & Glessner Company, and Lalance & Grosjean, at Harrisburg, and other outside tin plate manufacturers?

A. That may be true, but I cannot remember.

Q. You do not remember?

A. No.

Q. When were these exclusive contracts terminated?

MR. CORNEAU: If they were terminated.

A. They were drawn up for three years, but they were not continued that length of time.

By MR. REED:

Q. It was about March, 1902 that they were terminated, was it not?

A. I think so.

Q. Do you remember the exact date?

A. I think I have it. The 17th of March, 1902.

Q. Did you see Mr. Schwab?

A. Yes sir.

Q. About that time?

A. Yes sir.

Q. He was the president of the Steel Corporation then was he?

A. Yes sir.

Q. And it is a fact that he insisted upon these contracts being terminated, is it not?

A. He had called us all to New York for that purpose.

Q. Yes, and the foundrymen did not want to terminate them, did they?

A. Well, there was a question about it for a while.

Q. You did not want to do it?

A. Yes; I was perfectly willing to do it.

Q. But others did not want to?

A. Some did not want to and others did not object.

Q. Mr. Schwab insisted that they all be cancelled?

A. Yes sir.

Q. That was a few months after the Steel Corporation was formed, was it not?

A. Yes.

Q. Now, there were a number of foundrymen and roll makers who were not parties to this contract, were there not?

A. Yes. I do not know that I could name them, but there were some.

Q. Let me suggest some. The Canton Roll & Machine Company?

A. Yes.

Q. The Farrell Foundry & Machine Company, located at Ansonia?

A. Yes.

Q. The William Todd Company at Youngstown, Ohio?

A. I do not know whether they made rolls.

Q. They could have made rolls, could they?

A. Any foundry could, yes.

Q. Any foundry that has a reasonably good machine shop can make a hot mill, can it not?

A. Oh, yes, they can make them. They have the facilities and machines for doing that kind of work.

Q. Do you know the Birdsboro Foundry?

A. They made some rolls.

Q. That was not a party to this contract, was it?

A. No.

Q. And the Newbold Brothers of Philadelphia; they were not members, they were not parties to the contract?

A. No.

Q. And they could make rolls?

A. Yes, sir.

Q. The Philadelphia Roll & Machine Company?

A. Yes.

Q. They were not parties?

A. No.

Q. How about the Hyde Park Foundry?

A. I do not think the Hyde Park Foundry at that time was in existence.

Q. It was very soon after that, was it not?

A. It may be.

Q. The Allis-Chalmers Company was in a position to make them if they wanted to, was it not?

A. Oh, yes; any foundry.

Q. So that these contracts did not by any means tie up all the foundries in the country who were capable of making hot mills?

A. Oh, no.

RE-DIRECT EXAMINATION,

By Mr. Corneau:

Q. Had the Canton Machine Company been making machinery for tin plate mills up to that time?

A. Well, I do not know much about that. I could not say.

Q. What is your best impression on the subject?

A. My impression is that they were making rolls, but whether they made machinery or not I am not free to say, for I do not know.

Q. And the rolls of the sort used in tin plate mills?

A. Yes.

Q. How large a concern was that?

A. I believe at that time it had one furnace capable of making, probably, well, making a couple of those rolls a day —two or three.

Q. What was the size of your concern?

A. We have six furnaces.

Q. Can you tell me about how this Canton concern would compare with any of the others who were in the arrangement with you?

A. Well, I do not know that I could draw a comparison with any of the others.

Q. It would be very small, would it not?

A. It would be as large as some of the others.

Q. Now, the Farrell concern; is that making rolls for tin plate mills?

A. I could not say. That is a very old concern, one of the oldest in the country, but whether they make any tin plate rolls I do not know. But they did make rolls similar, for different purposes.

Q. How about the William Todd Company?

A. They did not make any rolls that I know of.

Q. And the Birdsboro Company?

A. I do not know to what extent the Birdsboro Company made rolls, either.

Q. Do you know whether they did make rolls at that time?

A. I think they made some. Whether they made tin plate rolls or not I do not know.

Q. How about Newbold Brothers?

A. They made chilled rolls. Whether they made any large enough for tin plate or not, I do not know. They principally made small rolls.

Q. How about the Philadelphia Roll & Machine Company?

A. They could make any sized rolls.

Q. What was their capacity, or however you measure it?

A. I do not know what their capacity was. They had, as I understood, about three furnaces, and they were different from our rolls that they used, and what they could do with them I do not know. They made some large rolls; I know that.

Q. Do you know whether the Allis-Chalmers Company made rolls at that time, or if they had made any?

A. I never heard of them making them.

Q. This paper which you produced and handed to Mr. Reed on your cross examination, will you just state whether or not that is an original contract?

A. This is the original contract.

Q. And the signatures are the original signatures to it?

A. Yes.

Q. And that, as I understood you to state to Mr. Reed, was the individual contract with your company, which was a part of the same transaction as the general contract between the various companies and the sheet steel company?

A. Yes.

MR. CORNEAU: We will offer that in evidence. It is agreed between counsel that this contract shall be copied into the record at this point and the original returned to the witness and omitted from the original exhibits.

(The contract referred to was marked "Government Exhibit No. 139," and is as follows:)

Agreement made this 15th day of November, A. D. 1900, by and between the American Sheet Steel Company, a corporation organized under and existing by virtue of the laws of the State of New Jersey, party of the first part

and Seaman Sleeth Company

party of the second part.

WHEREAS, in the ninth paragraph of the agreement of even date herewith between said American Sheet Steel Company and the SEAMAN-SLEETH COMPANY, the A. GARRISON FOUNDRY COMPANY, the LINCOLN FOUNDRY COMPANY, the TOTTEN & HOGG IRON & STEEL FOUNDRY COMPANY, the LEWIS FOUNDRY & MACHINE COMPANY, the MESTA MACHINE COMPANY, and the FRANK-KNEELAND MACHINE COMPANY, the CHILLED ROLL FOUNDRY, the LLOYD-BOOTH COMPANY, and the YOUNGSTOWN FOUNDRY COMPANY, the RIVERSIDE FOUNDRY COMPANY, and the AVONMORE FOUNDRY & MACHINE COMPANY, it is provided that as one of the considerations for said contract said SHEET STEEL COM-

PANY would make certain payments to each one of the said parties of the second part to said agreement and would execute separate agreements with each one of said parties stipulating the amounts payable respectively to said party:

AND WHEREAS, this agreement is one of said twelve separate agreements,

NOW THEREFORE, this agreement WITNESSETH that said AMERICAN SHEET STEEL COMPANY during the term of said contract and until the same is terminated in accordance with the provisions thereof, will pay to said

Seaman Sleeth Company

Twelve Thousand ($12,000.00)
Dollars per annum in manner following Twelve Thousand ($12,000.00) Dollars on the execution hereof, receipt whereof is hereby acknowledged, said amount being the first payment in advance, and is for the term of twelve months, and Six Thousand ($6,000.00) Dollars on May 15th, 1901, and a like amount every six months thereafter, the last payment to be made on November 15th, 1902, and to be for Seventy Five Hundred ($7500.00) Dollars, this including the balance of the annual payment and the additional month and one-half to the end of the term of said contract.

IN WITNESS WHEREOF, said parties have caused these presents to be executed on their behalf and their corporate seals to be hereunto affixed at the City of New York the day and date first above written.

AMERICAN SHEET STEEL CO.,
by Jno. A. Topping, V. P.

SEAMAN SLEETH CO.,
by J. C. Seaman, President.

Attest:
H. B. WHEELER,
Secretary.

(American Sheet Steel Co. Seal)
(Seaman-Sleeth Company. Seal)

A. LEO WEIL,

a witness produced on behalf of the United States, having been first duly sworn, testified as follows:

DIRECT EXAMINATION.

By Mr. Corneau:

Q. What is your business, Mr. Weil?

A. Attorney at law.

Q. Were you at one time the attorney for the American Tin Plate Company?

A. Yes.

Q. And the American Sheet Steel Company?

A. Yes.

Q. It has been stated in evidence, Mr. Weil, that certain contracts between machine makers and the American Tin Plate Company and the American Sheet Steel Company were returned to you or your firm. Have you those contracts?

A. Before answering that question I desire to state that whatever transactions I had in relation to those contracts or the possession thereof, or any disposition thereof, were in my professional capacity as either the attorney for the American Tin Plate Company, the American Sheet Steel Company, or, subsequently the United States Steel Corporation, and inasmuch as I am not now and for many years have not been in any manner associated as counsel with either of those companies, I would feel it my duty to stand more particularly and persistently upon the professional privilege with reference to any transactions affecting their business, than otherwise, and I must, therefore, decline to answer any questions with reference to my transaction of their business, at this time.

Mr. Reed: As to the contract in question, the American Sheet & Tin Plate Company waives any claim that it may have to professional secrecy on Mr. Weil's part.

Mr. Severance: So does the United States Steel Corporation.

MR. REED: And, so far as its interest appears, so does the United States Steel Corporation.

MR. CORNEAU: One of the other concerns is still in existence as a corporation, Mr. Reed?

MR. REED: That is right. We appear for the American Tin Plate Company. We make the same statement for that company.

By MR. CORNEAU:

Q. With this understanding, Mr. Weil, will you now answer the question?

A. As the privilege is one of client and not of counsel, and it being waived by clients, I am of course willing to answer any questions with reference to the same. What was the question?

By MR. CORNEAU:

Q. The question was whether you now have those contracts?

A. I have not.

Q. Do you know where they are now?

A. I do not.

Q. Can you state what was done with them, if you recollect?

A. I cannot. According to my best recollection, at the time the contracts were cancelled, shortly after the organization of the Steel Corporation, they were delivered to me, if there were more than two contracts, and I am not sure of that, that there were ever more than two contracts. But they were delivered to me, I am satisfied of that. Now, what was done with them, what I did with them, or what disposition was made of them, I have not the slightest recollection at this time. That is some ten years ago or more. I know they were in my possession, delivered to me, but what I did with them, to whom I delivered them, if anybody, whether I destroyed them, or what became of them, I have not the slightest recollection at this time.

Q. But you do know that you have not got them?

A. I do know that I have not got them.

Q. Have you made search for them?

A. I have.

Q. When you spoke of two contracts, did you mean contracts between two individuals, or two contracts between the American Sheet Steel Company on the one hand and various other parties, and the American Tin Plate Company on the one hand and various other parties?

A. I meant both. In the first place, there was a contract between the American Tin Plate Company and the Foundrymen who were parties to the contract. There was then, subsequently, after the organization of the American Sheet Steel Company, a similar contract made with that company by the foundrymen who were parties to the other contract. Whether or not there were more than two copies of either of those original contracts, or whether there was one for each party to the transaction, I do not recall. In other words, whether we ever had more than a copy for each party, that is for the party of the first part and the party of the second part to the contract, I do not remember.

MR. CORNEAU: That is all.

CROSS EXAMINATION.

By MR. REED:

Q. You stated that these contracts were cancelled soon after the organization of the Steel Corporation?

A. Yes; soon after the organization of the Steel Corporation I took all of the foundrymen who were parties to the contract, or their representatives, to New York, to the office of the Steel Corporation, and I think we spent the best part of a week in trying to get those contracts cancelled. There were a number of the foundrymen that were opposed, but we finally got them to agree to a cancellation of the contracts, and they were cancelled.

Q. At whose insistence were they cancelled?

A. The Steel Corporation's.

Q. Who was acting for the Steel Corporation in that?

A. I was, as attorney.

Q. You were attorney, but who was the officer of the Steel Corporation who was acting?

A. There were several of them. In the first place, Mr. Dickson, I think, the Vice President, and latterly and finally, Mr. Schwab.

Q. He was president at that time?

A. He was president at that time. Mr. Dickson was vice president, and I think, I am sure, there was one other of the officers of the Steel Corporation who was with us in the room most of the time, but I cannot now recall which one it was. I cannot recall his name.

Q. It was at the instance and insistence of the Steel Corporation that those contracts were cancelled?

A. Oh, yes.

MR. REED: That is all.

GEORGE ALEXANDER HOGG,

a witness produced on behalf of the United States, being first duly sworn, testified as follows:

DIRECT EXAMINATION,

By MR. CORNEAU:

Q. Will you please state your full name?

A. George Alexander Hogg.

Q. And your business?

A. I am retired, now; out of business.

Q. What was your business before you retired?

A. Foundryman and machinist. That is, I ran a foundry and machine shop.

Q. Under what name?

A. First it was the Totten & Hogg Iron & Steel Foundry Company; afterwards the George A. Hogg Iron & Steel Foundry Company.

Q. You were in that business in 1899 and 1898, were you not?

A. Yes.

Q. Do you recall a contract between your concern and the American Tin Plate Company with reference to furnishing rolls and machinery to the Tin Plate Company, executed about the first of the year 1899?

A. I recall it very indistinctly.

Q. Did you have to do with the negotiation of that contract?

A. Yes, I suppose so; with others.

Q. Where were the negotiations carried on?

A. I believe it was in Chicago.

Q. With whom were they had in Chicago; that is, who represented the American Tin Plate Company at that time?

A. I do not recollect that.

Q. Do you recollect whether or not it was Mr. D. G. Reid and Mr. Leeds?

A. No, I do not remember.

Q. Who executed that contract in behalf of your company, if you recall.

A. I do not remember.

Q. You do recall that there was a contract?

A. There was some kind of a contract between us and the Tin Plate Company.

Q. Were you or not familiar with its terms at that time?

A. I think I was, yes sir.

Q. Can you tell us just briefly the substance of it?

A. Indeed I could not state it at all. I have been out of business for three years, and I have forgotten, since that time; I have forgotten all about it—pretty much all about it.

Q. In asking you these questions I neglected to ask you if the contract was now in your possession?

A. No sir; it is not.

Q. You have looked for it?

A. We have no documents at all. We went out of business about three years ago, and the place was pillaged by people who went into the buildings and I did not suppose we would ever need them again, and I did not take care to preserve them.

Q. There was a similar contract between your company and the American Sheet Steel Company?

A. Yes sir; I believe there was.

Q. Can you tell me, generally, who the parties to the arrangement were, in both contracts; I mean the different machine makers?

A. There was the Lewis Foundry Company; I suppose the Robinson & Rea Company—

MR. REED: Not what you suppose, but what you remember.

A. (Continuing) Well, so far as that is concerned, I do not have anything to refresh my memory about that. My recollection, in a general way, was that these parties that I was going to name were parties to that.

By MR. CORNEAU:

Q. Well, will you just name them?

A. There was the Garrison Foundry Company, the Seaman Sleeth Company, the McIntosh & Hemphill Company; the Totten Iron & Steel Foundry Company.

Q. That was your concern?

A. Yes. There was some change in those. The same parties might not have been in both—might not have signed both the contracts. There was a party at Youngstown; I do not remember the name of that one; another concern called the Riverside, at Cleveland; a foundry company. There was the Frank-Kneeland Company; the Lincoln Foundry Company.

Q. The Mesta Machine Company?

A. Yes.

Q. The West Penn Foundry & Machine Company?

A. I do not remember about that.

Q. You do not recall that?

A. I do not recall.

Q. The Apollo Iron & Steel Company?

A. I do not know anything about that.

Q. The Lloyd-Booth Company?

A. Yes; the Lloyd-Booth Company.

Q. I think I did not ask you specifically with reference to the contract with the American Sheet Steel Company. The situation would be the same, I assume, with reference to that company as with reference to the contract with the American

Tin Plate Company, with respect to your ability to produce it?

A. I do not know that they had the same contract.

Q. No, no. I say you are no better able to produce the sheet steel contract than the tin plate contract?

A. No, sir.

MR. CORNEAU: I think that is all.

CROSS EXAMINATION,

By MR. REED:

Q. As you remember it, Mr. Hogg, did either of these contracts prevent your filling orders that you might get from competitors of the American Tin Plate Company and the American Sheet Steel Company that were in business at the time you made the contracts?

A. I do not remember about that.

Q. Is it your recollection that these were terminated soon after the organization of the Steel Corporation?

A. Yes.

Q. At whose insistence?

A. At their insistence, I believe.

Q. At the insistence of the Steel Corporation?

A. Yes, sir.

Q. You heard the list of founders and roll makers that did not participate in these contracts, as given by Mr. Seaman, did you?

A. Yes.

Q. Is your recollection the same as his, as to the names of the concerns that made rolls, that did not go into these contracts?

A. I think he is about right.

Q. Let me read the list to you as he gave it: The Canton Roll & Machine Company; the Farrell Foundry & Machine Company; the William Todd Company; the Birdsboro Foundry Company; Newbold Brothers; the Philadelphia Roll & Machine Company; Allis Chalmers Company.

Is it your recollection that all those concerns were then

making hot mills or rolls, and that none of them went into these contracts?

A. My recollection is that only one or two of them were making rolls; or two or three of them. They could have made them, had they seen proper, I suppose. But I did not keep posted on what outsiders were doing, very much.

Q. There was no obstacle to their making rolls, was there?

A. If they had the facilities.

Q. Did not all of these concerns I have named have the furnaces and casting halls?

A. I do not know that they had furnaces. They make castings from cupolas. They may have had cupolas, or some of them may have had both furnaces and cupolas.

Q. Each of these concerns had either furnaces or cupolas?

A. I think the Canton concern had, and the Philadelphia Roll & Machine Company, and the Farrell Company, possibly.

Q. The Farrell Company made a great many rolls for other purposes, did they not?

A. They made all kinds of little rolls, and possibly some large ones; I do not know just what.

Q. Newbold Brothers were equipped to make rolls?

A. I do not know anything about that.

MR. REED: That is all.

REDIRECT EXAMINATION,

By MR. CORNEAU:

Q. I understood you to answer to Mr. Reed that your best recollection was, however, that with the one or two exceptions named, those other concerns had not been in the business of making rolls for tin plate mills and sheet mills; that that was your best recollection?

A. I do not think that they were all—only two or three of them were actually making rolls, but they could have done so if they had seen proper to provide themselves with the proper material, and so on.

Q. But they had not been doing so up to that time?

A. As far as I know. I am not posted on their business.

MR. CORNEAU: That is all.

WILLIAM A. HERRON,

a witness produced on behalf of the United States, having been first duly sworn, testified as follows:

DIRECT EXAMINATION,

By MR. CORNEAU:

Q. What is your full name?

A. William A. Herron.

Q. What is your business?

A. I am engaged in two different businesses. One is the steel foundry business. The other is the manufacture of rolling mill machinery and rolls.

Q. In the latter business, with what firm are you now connected?

A. The Lewis Foundry & Machine Company.

Q. Were you connected with that concern in the latter part of 1898 and the early part of 1899?

A. I was.

Q. Did you have to do with the negotiation of a contract between that concern and the American Tin Plate Company in 1898 or 1899?

A. I did.

Q. Will you please state what you did?

A. I was present at the meetings in Chicago at which the matter was discussed, and afterwards meetings were held at Pittsburgh. At one of those I was present, but not at the final one.

Q. At the meetings in Chicago, just briefly, who were present?

A. You mean of the foundrymen?

Q. Yes, and of others.

A. The meetings were held principally among the foundrymen themselves. On one or possibly two occasions, we visited the office of the Tin Plate Company. Most of the time we spent among ourselves.

Q. When you visited the offices of the Tin Plate Company whom did you see?

A. I am not entirely positive, but to the best of my recollection it was Mr. Reid and Mr. Leeds.

Q. What foundrymen were present, to the best of your recollection?

A. Do you want to know the companies or the individuals from the companies represented?

Q. The companies.

A. I have here a list of the distribution figures among the foundrymen, under the contract. This is for the business of the months of March and April, 1899, and I presume would give the list of those who were present at those meetings. There are on this list Frank-Kneeland Company, the A. Garrison Foundry Company, Lewis Foundry & Machine Company, Totten & Hogg Iron & Steel Foundry Company, the Lloyd-Booth Company, Seaman-Sleeth & Company, McIntosh, Hemphill & Company.

Q. What is your present position with the Lewis Foundry & Machine Company?

A. I am president of the company at the present time.

Q. Will you state whether or not those negotiations culminated in a contract?

A. I believe they did.

Q. You were subpoenaed to produce that contract. Have you been able to find it?

A. I cannot find it.

Q. Will you just tell us briefly, the terms of that contract you made? You were familiar with it at the time?

A. I must have been familiar with it at that time, but that is thirteen years ago, and within three or four months after the signing of it I left the company, so that it has passed out of my mind. I am not familiar with the contract as drawn; I can only tell you my recollection of the effect of the contract.

Q. Will you just state that?

A. The Tin Plate Company was to divide its business in rolls and machinery among the foundry companies I have named; and they, in turn, as I recall it, were not to make machinery for new companies coming into the business, but might supply machinery to those then in existence. I think that is correct.

Q. So far I have been asking you with reference to the contracts with the Tin Plate Company. Have you looked also for similar contracts with the American Sheet Steel Company?

A. Yes sir.

Q. Did you find them?

A. I did not.

Q. You read, a moment ago, from a list which you said showed the distribution at certain times.

A. Yes sir.

Q. Have you any others of those lists?

A. Yes, sir.

Q. Have you compared that carefully to make sure that shows all of the parties?

A. No; but I can do so.

Q. Perhaps, if it will not take too long, you might take one or two of them.

A. Here is one for 1901. (After making comparison of lists) This is the same; this list for 1901 shows the same.

MR. CORNEAU: I think that is all.

CROSS EXAMINATION,

By MR. REED:

Q. Mr. Herron, is it your recollection that both of these contracts were cancelled soon after the Steel Corporation was formed, at Mr. Schwab's insistence?

A. I do not know anything about that, because I left the Lewis Foundry shortly after the signing of the tin plate contract.

Q. You have told us there was nothing in this contract to

prevent the manufacture of rolls or tin mill machinery for competitors of the Tin Plate Company then in existence?

A. That is my recollection.

Q. If a new concern, just started, wanted to have rolls built in this country, there was no reason why they could not have them built by the Canton Roll & Machinery Company, was there?

A. No, if that company was then in existence; but I have no recollection that it was.

Q. Do you remember the Philadelphia Roll & Machinery Company?

A. Yes, sir.

Q. It was then in existence?

A. Yes, sir.

Q. And not tied up by those contracts?

A. No.

Q. The Farrell Foundry & Machine Company was not?

A. No.

Q. The William Todd Company was not, was it?

A. No.

Q. The Birdsboro Foundry was not?

A. No.

Q. Newbold Brothers were not?

A. No.

Q. In addition to these particular concerns which I have named, which made rolls, there were a great number of concerns in the United States that were able to make rolling mill machinery, as distinguished from rolls?

A. I think so, of the simple kinds, such as sheet and tin plate mills.

Q. A sheet and tin plate mill does not take any very complicated machinery, does it?

A. No.

Q. So that the effect of these contracts of which you have spoken was not to prevent the possibility of the construction of new mills?

A. No, sir.

MR. REED: That is all.

RE-DIRECT EXAMINATION,

By MR. CORNEAU:

Q. With the exception of the Philadelphia Roll & Machine Company, as I understood your answer—and you will correct me if my understanding is incorrect—you do not recollect that any of the others that he mentioned had up to that time in fact been manufacturing rolls and machinery for tin plate and sheet mills?

A. Not for tin plate or sheet mills.

MR. CORNEAU: That is all.

RE-CROSS EXAMINATION,

By MR. REED:

Q. There was nothing to prevent their starting, was there?

A. No.

MR. REED: That is all.

HENRY C. SHAW,

a witness called by and on behalf of the United States, having been first duly sworn, testified as follows:

DIRECT EXAMINATION,

By MR. CORNEAU:

Q. What is your business, Mr. Shaw?

A. Manufacturer; Vice-president of the A. Garrison Foundry Company.

Q. How long have you been connected with that concern?

A. Since February, 1902.

Q. What was your business before that time?

A. I was vice-president of the Lewis Foundry.

Q. As vice-president of the Lewis Foundry, did you have anything to do with the negotiation of a contract between the American Tin Plate Company and that concern?

A. No, sir.

Q. Were you aware of the fact that a contract was executed about the early part of 1899 with reference to furnishing the Tin Plate Company with machinery and rolls?

A. Yes, sir.

Q. Were you subpoenaed to produce copies of the contract between the American Tin Plate Company and the A. Garrison Company? Did you look for that contract?

A. I have had a search made, yes.

Q. Did you find it?

A. No, sir.

Q. How is it with reference to the contract mentioned in the subpoena with the American Sheet Steel Company? Have you made a search for that?

A. Yes.

Q. And you do not find it?

A. No.

Q. As vice-president of the Lewis Machine Company were you familiar with the terms of the contract between that company and the American Tin Plate Company or the American Sheet Steel Company?

A. Yes.

Q. Will you state to us, briefly, the substance of those agreements?

A. It was from hearsay I was familiar with it. I never have seen the contracts. I never have seen either one. I am not sure that there was more than one contract, and I have never seen either one.

MR. REED: I object to any evidence that the witness got by hearsay.

By MR. CORNEAU:

Q. Were you familiar, Mr. Shaw, with the operations of the contract?

A. Yes, sir.

Q. You were familiar with the operations of your company under the contract?

A. Yes.

Q. Will you just state what they were?

A. The Lewis Foundry and the Garrison Foundry had similar contracts with the Tin Plate Company, by which the Tin Plate Company purchased from them and others, under similar contracts, their entire supply of rolls and machinery.

MR. REED: Whose entire supply?

THE WITNESS: The Sheet & Tin Plate Company. The Garrison Foundry sold rolls to outside companies, firms which did not enter either one of these corporations. I do not know whether the Lewis Foundry did or not. I do not remember.

By MR. CORNEAU:

Q. Just explain that a little bit further. Do you mean they sold to concerns that were in existence—already in existence at the time the contracts were made?

A. Yes.

Q. How about new concerns?

A. They did not sell to new concerns, either rolls or machinery.

Q. Can you give me the dates of those two contracts between the Garrison Company and the Tin Plate Company?

A. No.

Q. Did you bring the minutes of your directors' meetings with you?

A. Yes.

Q. Refer to them, please.

A. Here they are (witness producing book).

Q. The book which you now have before you is what?

A. It is the minute book of the directors of the A. Garrison Foundry Company.

Q. If you find in there any reference to the contract of the Tin Plate Company or the Sheet Steel Company, will you just read it into the record?

A. (Reading from minute book). "The following resolution was read by the secretary. The contract between the"—

Q. What is the date of that?

A. The date of this meeting is January 27, 1899.

"The contract between the American Tin Plate Company

and this and other companies, dated January 3, 1899, having been executed on behalf of this company by A. G. Barnett, Jr., secretary, he affixed the corporate seal thereto. The said contract thus executed having been submitted to the board and read, after full consideration thereof, it was

"Resolved, that said contract be and the same is hereby approved. The said execution thereof by this company is hereby ratified and confirmed."

MR. REED: What is the date of that, Mr. Shaw?

THE WITNESS: The date of the contract is January 3, 1899, and the date of these minutes is January 27. Do you want me to read the other?

By MR. CORNEAU:

Q. If you have the one with reference to the contract with the American Sheet Steel Company, please read it.

A. (Reading from minute book). "Special meeting of the board of directors, November 30, 1900.

"The following resolution was read by the secretary:

" 'The contract between the American Sheet Steel Company and the Seaman-Sleeth Company and others, dated November 15, 1900, having been executed on behalf of this company by W. D. Ricketson, superintendent, he affixed the corporate seal thereto, and said contract thus executed having been submitted to the board of directors and read, after full consideration thereof, it was

"Resolved that said contract be and the same is hereby approved and the said execution thereof by this company is hereby ratified and confirmed.' "

MR. CORNEAU: I think that is all, Mr. Shaw.

CROSS EXAMINATION.

By MR. REED:

Q. Tell us the names of some of the competitors of the American Tin Plate Company to whom you remember the Lewis Foundry sold rolls.

A. I do not remember to whom the Lewis Foundry sold

rolls. That has been thirteen years ago. I remember the ones that were in existence, several of them.

Q. You remember that your foundry did sell rolls to these competitors?

A. I know, for instance, that we had been selling rolls to the Alan Wood Iron & Steel Company of Philadelphia for a great many years, and although of course I have not looked up the bills and all that, I am quite sure the Norton Tin Plate Company of Maywood, Chicago, bought rolls from us—the Garrison Foundry. Now, as to the Lewis Foundry, I do not remember very much about that.

Q. Is your recollection the same as that of the other gentlemen, that these contracts were cancelled at Mr. Schwab's insistence, in March, 1902?

A. Yes; on the 17th of March—St. Patrick's Day.

(Whereupon, at 12:30 o'clock P. M., a recess was taken to 2:00 o'clock P. M.)

AFTER RECESS.

At the expiration of the recess the hearing was resumed, and counsel thereupon stipulated as follows:

STIPULATION BY COUNSEL.

It is agreed that there are present as witnesses, subpoenaed by the petitioner, the following persons, from the following concerns, respectively:

George Mesta	Mesta Foundry & Machine Company
Edward Kneeland	Frank-Kneeland Company
G. G. Small	Lincoln Foundry Company
William H. Rea	Robinson-Rea Company
Pennock Hart	McIntosh, Hemphill & Company
Charles E. Satler	United Engineering & Foundry Company, successors to Lloyd, Booth & Company; Lincoln Roll & Foundry Company and Frank-Kneeland Company.

That they would testify that the said concerns were parties to the contracts with the American Tin Plate Company and the American Sheet Steel Company, described by J. S. Seaman and W. A. Herron, and that in respect of same and what was done by said concerns thereunder, would testify substantially to the same effect as has been testified by J. S. Seaman, W. A. Herron and H. C. Shaw, and that this may be used in lieu of such testimony.

(Note: The foregoing stipulation was dictated to the reporter by Mr. Corneau and read aloud by the reporter at the beginning of the afternoon session, as herein recorded.)

J. P. BRENNEN,

a witness called by and on behalf of the United States, having been first duly sworn, testified as follows:

DIRECT EXAMINATION,

By Mr. Colton:

Q. In what business are you engaged, Mr. Brennen?

A. The coke business.

Q. When did you first go into the coke business?

A. In 1880.

Q. With what company did you go into the coke business?

A. I was with various companies. Among others, the McClure Coke Company. I am now president of the Thompson Connellsville Coke Company.

Q. In what capacity were you with the McClure Company?

A. For the last ten years that they were in business I was their general superintendent.

Q. What ten years was that?

A. From 1886 to 1896.

Q. What became of the McClure Coke Company?

A. It was absorbed by the Frick Coke Company.

Q. State whether or not the McClure Coke Company was selling coke in interstate commerce prior to the time it was absorbed by the Frick Coke Company.

A. It was.

Q. State whether or not the Frick Coke Company was selling coke in interstate commerce at the time it took over the McClure Coke Company.

A. It was.

Q. What other companies were in the coke business at that time?

A. Oh, there were various companies. Do you mean up until 1895 or 1896?

Q. Yes.

A. There were various companies. There were three or four large companies and several small companies.

Q. Name the large ones.

A. W. J. Rainey and the Hecla Coke Company.

Q. In what region did these coke companies have their coke supply?

A. In what was known as the old Connellsville region.

Q. Approximately how many acres of coal were there in the old Connellsville coke region at that time?

A. I do not know, but I would say 60,000 or 70,000 acres, or something like that.

Q. What portion of the coking coal of the Connellsville district was controlled by the Frick Coke Company after it had absorbed the McClure Coke Company?

A. I would not know. It would have to be an approximation with me, but I would say that probably 70 or 75 per cent., or something like that.

Q. Have you been over the Connellsville district?

A. Oh, yes.

Q. And you know the Connellsville coke district thoroughly, do you?

A. Oh, yes, I have been there, I have been all over it.

Q. After you left the McClure Coke Company, in what business did you engage?

A. I was engaged in looking up coal and doing expert work for a couple of years, and then I went back into it for the Federal Steel Company.

Q. Are you familiar as to from what part of the United

States the steel manufacturers north of West Virginia and east of the Mississippi obtained their coking coal?

A. From what points?

Q. North of West Virginia and east of the Mississippi River.

A. Oh, the Connellsville region, I guess.

Q. Did they obtain a part of their coking coal at that time from West Virginia?

A. Oh, yes; there was always coal that went from West Virginia to the Chicago market and to the West.

Q. Do you know whether the West Virginia district was developed at that time?

A. Nothing like it is now, no, sir.

Q. You say that you began the acquisition of coke for the Federal Steel Company—

A. That is the development of some coal property that they purchased—

Q. In what condition was that property at the organization of the United States Steel Corporation?

A. I do not know just when the United States Steel Corporation was incorporated, but I started to develop the coal for the Federal Steel Company—the company was known as the Eureka Fuel Company—in the fall of 1899.

Q. What was the condition of their property two years later—the coal property?

A. There was some developed—there was a great deal of development going on, but there was not a large output, as it takes about that length of time to develop.

Q. Were other companies in that region engaged in acquiring coking coal at that time?

A. Oh, yes.

Q. Name some of them.

A. I was constructing three plants for the Eureka Fuel Company and the American Steel & Wire at the same time were breaking ground and constructing for the American Steel & Wire; those plants were known as Gates—one of them was Gates, but I cannot recall the names.

Q. Were there any other parties or companies in that region developing coking fields?

A. I think maybe the Youngstown Sheet & Tube. I do not know but what it was called the National Company. It was in the old region. That is, the coal was what was known as the old region coal.

Q. Where was this coking coal you were developing?

A. In what is now known and was then as the Klondike.

Q. State whether or not the Klondike region was developed in 1901, and to what extent?

A. In 1901 it was developing rather fast. I could not say to what extent. I think that the first coke that I made for the Eureka Fuel Company was in April or May; May, 1900; but that was only a little bit.

Q. In 1900 what percentage of the coking coal was controlled by the Frick Coke Company, the American Steel & Wire Company, the Federal Steel Company and the other companies afterwards absorbed by the United States Steel Corporation?

A. I could not answer that. The Eureka Fuel Company had something like five thousand acres. I do not know what the others had. They had large tracts, but I had no knowledge of them.

MR. REED: What proportion in what district do you mean, Mr. Colton?

MR. COLTON: The Connellsville and the Klondike regions.

By MR. COLTON:

Q. Was the Connellsville district developed at that time?

A. Yes; pretty fully.

Q. Was the Klondike District developed at that time?

A. No.

Q. Did the American Steel & Wire Company or the Federal Steel Company have coking coal in the Connellsville district proper?

A. One of them did. I said the Federal or the Youngstown Sheet & Tube; it might have been the American Tin Plate Company. I do not know what the company was, but the plants now are known as the Continentals, 1, 2 and 3, the ones I refer to.

Q. Do you know about how many ovens there were in the Klondike region and the Connellsville region at that time?

A. At which time?

Q. In 1900?

A. There were about 20,000.

Q. And about how many of those ovens were owned or controlled by the Frick Company?

A. That would be a guess of mine. I would say probably seventy or seventy-five per cent of the old; seventy-five per cent, say, of the old region. Of course in 1900 the Frick Company did not own these plants. They were not constructing them. It was these individual companies. They did not get them until sometime after that.

Q. You mean by "these" companies, the American Steel & Wire and the Federal Steel?

A. Yes.

Q. What other companies outside of the Federal Steel Company or its subsidiaries, the American Steel & Wire Company or its subsidiaries, and the Frick Coke Company, were developing coke in the Connellsville or Klondike regions in 1900?

A. There was not any. Yes; possibly Bessemer. Bessemer might have been developing a few there at that time.

Q. Was the Bessemer a large company?

A. Not at that time. It is much larger now.

Q. How large is it now?

A. They have five hundred or six hundred ovens.

Q. Did you afterwards develop coking coal for other companies in that region prior to 1904?

A. Yes: for the Sharon Steel Company I developed a property.

Q. Where was that property located?

A. On the Monongahela River.

Q. In which region?

A. The Klondike.

Q. How extensive were their coking fields?

A. My recollection is that it was about 1600 acres. There

were to be no ovens built. The Sharon Steel Company were constructing by-product ovens and the coal was to be shipped to South Sharon to be coked in by-product ovens.

Q. State whether or not the Connellsville Coke is generally regarded as better than other coke produced in the United States, in so far as you know.

A. Yes; it is considered better.

Q. Were the Frick and McClure Coke Companies competing with one another in interstate commerce in the sale of coke?

A. Oh, yes; yes, sir.

MR. COLTON: That is all.

CROSS EXAMINATION,

By MR. REED:

Q. Mr. Brennen, there is coking coal in Westmoreland County?

A. Yes; plenty of it.

Q. And there is lots of it in Fayette County?

A. Yes, sir.

Q. And in Washington County?

A. Yes.

Q. And there is some in Green County?

A. Plenty of it.

Q. There is a great deal of coking coal of good quality in West Virginia?

A. Yes sir.

Q. In what district is this Thompson Connellsville Company of which you are now the president operating?

A. In Fayette County.

Q. Has it property in Green County?

A. No; the company has not. Mr. Thompson, of course, has.

Q. Mr. Thompson, individually, has a great many thousand acres in Green County?

A. Yes, sir.

Q. Of excellent coking coal?

A. Yes, sir.

Q. About how many acres would you say he has there?

A. I would say he had at least 75,000 acres.

Q. Is it not closer to 100,000 acres?

A. It might be.

Q. About how many acres—

A. (Interrupting) I have no knowledge of just what he has, Mr. Reed, of course.

Q. I knew you were familiar to some extent with his operations.

A. Yes; he is a very large holder. I have some there myself. We all have.

Q. About how many acres in the old Connellsville district in Fayette County would you say the Frick Coke Company owned—still unworked? I do not mean worked out property

A. They own a great deal of it.

Q. A great deal?

A. Yes, sir.

Q. Can you give us an estimate of the acreage?

A. That is, in Fayette & Westmoreland counties?

Q. Yes; in the old Connellsville District?

A. I would say if there was 60,000 acres in it they would own 45,000 to 50,000—probably—75 or 80 per cent.

Q. It is a fact, is it not, though, that Mr. Thompson owns more of the coking coal in southwestern Pennsylvania than the H. C. Frick Coke Company does?

A. Yes; I believe that.

Q. And Mr. Thompson is not in the steel business, is he?

A. No, sir.

Q. And up to the present time his properties were always for sale?

A. I think so.

Q. If any purchaser wanted them and was willing to pay for them?

A. I think so; yes, sir.

Q. About what proportion of the good coking coal of the southwestern Pennsylvania district do you think the H. C.

Frick Coke Company controls, either directly or through its subsidiary companies; not over ten per cent., is it?

A. Well, I never figured out the percentage of it, and really I do not know what the total is. I would not know whether it is ten per cent. or fifteen per cent., or what it is. They do not own anything like half of it, I can say that. I would not know what the percentage was.

Q. It is pretty safe to say that they do not own as much as one-fifth of it, is it not, Mr. Brennen? Of course, I know you have never measured it up and made an exact estimate, but based on your experience, would you not say that they own less than one-fifth of it?

A. I really would not like to answer. I would not be surprised if that was true; but I am satisfied that they do not own half of it, or anything like that. But I would not want to measure it down to ten or fifteen per cent. They might own a lot that I do not know.

Q. I do not want to crowd you into an estimate that you are not prepared to make; but they certainly have no monopoly of it?

A. No.

MR. COLTON: I object to that as calling for a conclusion of law.

By MR. REED:

Q. How would you define the Klondike region, Mr. Brennen?

A. Well, it was a piece of coal lying south of the old region, where the coal was somewhat harder, and up until 1900 it was regarded as what is known here as the river coal. It is harder, and probably has one and a half or two per cent. more volatile in it than the older coal; and is considerably harder. Why I say that is that it is much harder to mine, and we shoot it most all, and in the old region we did not. That is about the only difference.

Q. But it makes good coke?

A. Oh, yes.

Q. And it is generally used not only by the Steel Corpo-

ration, but by its competitors in the Pittsburgh furnaces, is it not?

A. Yes.

Q. What towns would you say represent the northern limit of the Klondike field?

A. It would be three or four miles—about three miles—south of Uniontown. There would not be any town; that is where it comes in.

Q. That is about the northern limit of what is commonly regarded as the Klondike field?

A. Yes.

Q. And what is the southern limit, would you say?

A. The southern limit of the Klondike would be the West Virginia line, there.

Q. Coal of the same quality extends across the state line, does it not?

A. I suppose so. We always kind of deny that, but I guess it does.

Q. The eastern limit of the district is about Laurel Mountain, I suppose?

A. No, it is cut out there. Well, yes; at the foot of the Laurel Mountain.

Q. And what is the western limit?

A. It would be over in the neighborhood of Waynesboro.

Q. Away over in Green County?

A. Yes.

Q. That is a very much larger district than the old Connellsville district?

A. Oh, very much.

Q. And the proportion of coal in that district that is owned by the Frick Coke Company or its subsidiaries is much less than the proportion which it owns in the old Connellsville district, is it not?

A. How is that? I did not catch that.

Q. I say the Frick Coke Company's proportion of the coal

in the Klondike district is not anything like as big as its proportion in the old Connellsville district?

A. No.

Q. When you stated, in answer to Mr. Colton, that the Frick Coke Company in 1901 owned about 75 per cent., you of course meant to limit your answer to the old Connellsville district?

A. Decidedly so; yes, sir.

Q. Decidedly so; is that your answer?

A. Yes. I do not think they had any of the Klondike district.

Q. They did not have any in the Klondike district?

A. I do not think so.

Q. Of course, the introduction of the by-product oven has increased the quantity of coal that can be used for coke, has it not?

A. Yes, sir.

Q. A great many kinds of coal that in 1895 were not coking coals at all have become coking coals since the use of the by-product oven has become general?

A. Yes, sir; by mixture, and so forth.

Q. What is that?

A. By mixture, and so forth. Yes, they mix it and make it.

Q. You have had experience enough in the coal business in Ohio, West Virginia, Indiana and Illinois to know that there are vast tonnages of coal that can be used for coke?

A. I have not any knowledge in Indiana and Ohio. I have some of West Virginia.

Q. Your knowledge is limited to West Virginia and Pennsylvania?

A. Yes; principally Pennsylvania.

Q. Outside of the old Connellsville district, and outside of the Klondike district, there are vast quantities of coal that can be used for making coke in the by-product oven, are there not?

A. Yes.

Q. And of those tonnages the Steel Corporation's ownership is an insignificant per cent, is it not?

A. Yes, I would say so.

Q. It is hardly possible, even by a combination of all the existing companies, to get a monopoly in coal that can be used for making coke, is it?

A. I would say so.

MR. COLTON: I object to that on the ground that it is a hypothetical question involving a mixed question of law and fact.

MR. REED: It would involve a good deal of law if you were to put in the existing companies to-day; I admit that. That is all.

RE-DIRECT EXAMINATION

By MR. COLTON:

Q. When was the by-product oven introduced?

A. The by-product oven?

Q. Yes.

A. It has been, of course, used in Europe for many, many years.

Q. I mean in this country.

A. In this country there was a plant up here about Glassport, which is near McKeesport, in 1896 or 1897; anyhow, in 1896 or 1897, or something like that.

Q. When did it come into general use?

A. I do not think that they have come into general use at all. There are large plants in Chicago and at Gary, Indiana, and some at different points, but they have not become in general use yet; I do not think so.

Q. Why are they used at all?

A. I suppose to save freight; and they claim to cheapen the fuel. I am not familiar, you understand, with the by-product practice.

Q. Is the by-product coke oven used in the Klondike region?

A. Oh, no; by-product ovens are located at furnaces.

Q. Where is that used?

A. Which, the by-product coke?

Q. Yes.

A. It is used for the same purpose as the beehive coke.

Q. Yes, but in what part of the country?

A. There is only one by-product plant in this section of the country. The nearest point to this, I suppose, would be South Sharon.

Q. When was that put up?

A. It was being constructed when I was developing the coal for the Sharon Steel Company. That was in 1902 or 1903, I guess.

Q. At the time the Frick Coke Company took over the McClure Coke Company, what was regarded as the coking field of Pennsylvania?

A. The good coke was supposed to be all confined in the old Connellsville coke region.

Q. And at the time in 1900, where was supposed to be all the good coke?

A. Those holding in the old region tried to belittle the Klondike. They said it was not good, until practice demonstrated, of course, that it was all right.

Q. When was the Klondike region developed for coking purposes?

A. In 1900.

Q. To what extent was it developed?

A. I could not say, exactly. I was opening up three mines and constructing 400 ovens at each mine. That would be 1,200 coke ovens. Then the American Steel & Wire people had about the same. They had three plants, with about the same number of ovens.

Q. How many ovens were there in that region, as nearly as you can approximate it, in 1900?

A. In 1900?

Q. Including both the Connellsville region and the Klondike region?

A. There were about 18,000 ovens in the old region.

Q. At that time there were not any, you say, in the new region, for the reason that they were not making coke out of it; they were merely constructing a number of ovens?

A. There were none in use.

Q. From where did the steel manufacturers get their coking coal, principally, in the early part of 1901?

A. From the old region, West Virginia; principally the old region, of course. There was not much coming out of West Virginia.

Q. Almost all of it came from the old region at that time?

A. Yes; there was not any other place to get it.

Q. Outside of the Klondike region and the Connellsville region at that time had there been any development at all in any other region?

A. Yes; there were a few small plants, east of Latrobe and north of Greensburg, but the coke men in those days did not regard it as standard coke, and for that reason I did not include it. They were not strictly coke plants. They shipped coal and made coke out of slack mostly in those days.

Q. In 1900 I understood you to say there were about 18,000 coke ovens in the Connellsville region and the Klondike region, taking them both together?

A. Did I say that?

MR. SEVERANCE: He said in the Connellsville district.

THE WITNESS: No, there were more than that in the Connellsville district. There were 18,000 ovens when the McClure Coke Company was absorbed by the Frick Coke Company. There were about 20,000 ovens.

By MR. COLTON:

Q. Does your answer cover both regions?

A. There were not any in the Klondike, as I said. There were 20,000 in the old regions, exclusive of Greensburg, and when the McClure Coke Company was absorbed by the Frick Coke Company there were about 18,000.

Q. Then of the entire development, that which was developed and ready for sale at the time of the organization of the United States Steel Corporation—or, rather, I will have to give you the date; I will say early in 1901—the Frick Coke Company and the Federal Steel Company and the American Steel & Wire Company owned what percentage of all the ovens then in operation in the Connellsville region and the Klondike region?

A. Well, to include those new operations would be to add to the seventy or seventy-five per cent.

Q. How much would it be, taking that into consideration?

A. I could not recall how many were developed in 1901. You know it takes four or five years to develop a plant and to supply coal for 400 ovens. I would only have to guess at it, and I could not tell how many of those plants there would be except to guess at it.

Q. It would take a long time, then, from 1901, to develop sufficient coking coal to supply the manufacturers of steel from other sources than those already developed?

A. Yes, sir.

MR. COLTON: That is all.

RECROSS EXAMINATION.

By MR. REED:

Q. Did the manufacturers of pig iron that were not taken into the Steel Corporation have any extreme difficulty in getting coke after 1901?

A. No. You know, in 1901 the Frick Coke Company was selling coke in the open market to any person.

Q. It was possible to buy it from a good many other producers, was it not?

A. Yes. It seemed to be known that they were together. I never knew of any shortage except at times when business was booming.

Q. The only times of shortage were when everybody was short?

A. Yes, sir; just the same as it is now.

Q. You spoke of knowing no large by-product ovens east of the Illinois ovens and Indiana ovens, except the Sharon. Do you not know that Mr. Schwab has recently built at Bethlehem a very large by-product plant?

A. He asked me about that particular time. I know they have them now. For instance, at Gary and at the Inland Steel Company. At least, the newspapers say they are there. I used to furnish them coke, and they told me they were going to build them.

Q. By-product ovens are being built and are in operation pretty generally throughout the country now, are they not?

A. No, I would not say that. It costs a good deal to build such a plant, and it takes a pretty large company to construct by-product coke ovens. It costs about $11,000 an oven. The small people, of course, cannot build them for small plants. That is the way I understand that.

Q. Mr. Severance has the impression that you did not fully answer my question about the Bethlehem plant. How many ovens has Mr. Schwab built there, or how many are being built?

A. I do not know. I did read, but it is quite a large number—sufficient to furnish coke for his various furnaces. My knowledge of that is only what I have read in the trade papers. I have no absolute knowledge.

MR. SEVERANCE: That seems to be regarded as good evidence here—what one reads in the papers.

MR. REED: It is the way we found out how the Troy Steel Products Company was owned.

By MR. REED:

Q. All this product you speak of, though, can be coked in the beehive oven, can it not?

A. Yes.

Q. How much does it cost to put up a beehive oven?

A. The beehive oven proper would cost $500.

Q. Certainly not more than that?

A. No. Of course, when we speak of building them, equipping them, we take into consideration everything that would go into them, such as wagons and everything of that sort.

Q. And opening up the mines costs a good deal, too?

A. Yes. A beehive oven can be built for less than $500.

CHARLES A. PAINTER,

a witness produced on behalf of the United States, having been first duly sworn, testified as follows:

DIRECT EXAMINATION,

By Mr. Colton:

Q. In what business are you engaged?

A. I am president and manager of a brokerage house, a branch house in Pittsburgh.

Q. When did you first go in business, and where?

A. In 1884.

Q. What was the name of the firm?

A. J. Painter & Sons.

Q. What was your company?

A. J. Painter & Sons.

Q. And what did it manufacture?

A. Hoop and band iron, cotton ties, and special.

Q. In what capacity did you go into that company?

A. As assistant secretary.

Q. Did you become familiar with other companies manufacturing the same sort of material that your company manufactured?

A. Yes.

Q. Do you know what products were manufactured by the Union Iron & Steel Company?

A. At Youngstown?

Q. Yes.

A. Yes.

Q. What were they?

A. About the same line that we manufactured. Also heavier sizes, more bars, and some angles.

Q. Were they competitors of yours in interstate commerce?

A. Yes.

Q. In what products?

A. Hoop and band iron, cotton ties in special sizes that we rolled.

Q. Take the William Clark & Sons Company. What did they manufacture?

A. Mostly our line.

Q. What was that?

A. Hoop and band iron, cotton ties, and special shapes.

Q. Were they competitors of yours in interstate commerce?

A. Yes, sir.

Q. Did you manufacture cotton ties?

A. Yes, sir.

Q. Did each of the other companies named manufacture cotton ties?

A. Yes, sir.

Q. Take the Lindsay & McCutcheon Company; what did they manufacture?

A. The same thing, about—hoop and band iron and cotton ties.

Q. Were they competitors of yours in interstate commerce?

A. Yes, sir.

Q. Take P. Kimberly & Company. Do you know that company?

A. Yes, sir.

Q. What did it manufacture?

A. Hoop and band iron and cotton ties.

MR. REED: That is not exactly its name, I think. It should be P. L. Kimberly & Company.

By MR. COLTON:

Q. That company was a competitor of yours in interstate commerce?

A. Yes, sir.

Q. Were there any other companies competing with you in interstate commerce at that time?

A. Yes; Pomeroy. I have got a good list here.

Q. I do not know that you will be permitted to refer to that list—unless you prepared it.

MR. SEVERANCE: Oh, yes; let him go ahead.

MR. COLTON: All right.

THE WITNESS: The Monessen Mills, up the river here, were competitors. Mingo Junction at times jumped in and made some materials the same as ours.

MR. REED: What is the name of the Monessen Mills?

THE WITNESS: The Monessen Hoop Company was it not?

MR. REED: The Monessen Steel Company, was it not?

THE WITNESS: Yes; the Monessen Steel Company, that is right.

A. R. Whitney & Company at Duncansville; and Pomeroy—I forget the name of that company; Kingsley's company, but there was a mill at Pomeroy, Ohio. Then, the mills at Warren and Girard belonged to the Union Mills.

By MR. COLTON:

Q. Did your company come into competition with the Illinois Steel Company in the sale of any of these products?

A. At times.

Q. In interstate commerce?

A. Yes, sir.

Q. And in the sale of which products?

A. Cotton ties and light hoop, about the size of cotton ties—inch wide and eighteen gauge thick.

Q. Did you come in competition with the H. P. Nail Company in the sale of any of these products?

A. Yes; cotton ties.

Q. Were you connected with a company of the name of the Export Company?

A. Yes, sir; one of the directors.

Q. What was that company?

A. That was a company we got up. After the panic of 1893, and the bad times in America, we got up a little company to go after foreign trade. It was formed and regularly incorporated. The different manufacturers did it so as to handle their foreign trade as a unit, instead of each one of these different companies going abroad and having the expense of their agents and the expense of breaking into the foreign trade. We ran it along very successfully until the boom came along, and then the American prices were higher

than the English prices and they did not do very much business.

Q. When did the boom come along?

A. 1899. It started in about 1898 or 1899, 1900 and 1901. Then there was a dip, and then it went up again.

Q. What companies joined in that export company?

A. I am not sure how many of the hoop companies did, but I think about six or seven.

Q. Can you name them?

A. Yes. J. Painter & Sons, Lindsay & McCutcheon, William Clark & Sons, A. R. Whitney and, I think, the Pomeroy Company. I am not sure of that name—Mr. Kingsley's company.

Q. Did you make any use of your export company at any time in connection with domestic business?

A. It sometimes took orders in America, the same as they would take them abroad.

Q. How did that operate, and why did you do that?

A. Well, through the agents oftentimes prices were sent abroad, and they would hear of a good order here, and let the Export Company take it.

Q. In 1895 or 1896 was this business extended to domestic business on large orders?

A. There were some large orders.

Q. State whether that was to meet the quotation of a low price by domestic mills.

A. Very often.

Q. How did it meet the low price quoted by the domestic mills? In what way did that operate?

A. Rather than for each company to go competing after the business, the export company would take it; and then the companies that formed the export company would bid for the making of the material.

Q. And the particular company that had got the order would not get the order? Is that it?

A. Sometimes; if they were not the low bidder.

Q. What was the object of that?

A. To keep from demoralizing prices all along the line

and to give every one the benefit of every mill that was very hungry to run, or that had a low cost on billets.

Q. What was the effect of that?

A. It brought the people closer together and made one common front in meeting our competitors.

Q. Did it have a tendency to maintain prices?

A. No; I think it was the other way, at times, because they would lead us into low prices for foreign business that we would extend to the home business.

Q. Did it keep the members from competing with one another?

A. The few that were in the Export Company were not such competitors with one another, because we would compete in the company for the business.

Q. But you were separate companies aside from your relation with that Export Company.

A. Surely.

Q. The effect of the Export Company was to keep you from competing in business?

A. No; we did compete with one another right straight along, but did it through the Export Company.

Q. Did the mill that had originally made the bid always get the business?

A. If they were the low bidder for the making.

Q. Then what did the Export Company have to do with the bid, if the mill that bid lowest got the business?

A. They would get the difference in the price, if there was any.

Q. The difference in the price, if any, between what prices?

A. The difference in the price at which the order had been sold by the Export Company and what they could get it manufactured for.

Q. Did the Export Company fix the price of the order?

A. They got it at the best possible price at which they could get it. They did not fix it. They could not have fixed it.

Q. Did you bid in the name of the Export Company?

A. Yes.

Q. For domestic business?

A. A few orders for domestic. Mostly abroad.

Q. Did the individual companies in the Export Company bid for domestic business?

A. Yes.

Q. Did they bid for the orders that the Export Company bid for?

A. The Export Company usually would get a track of the order ahead of the individual companies, and then would go ahead and take it, before the individual companies had the chance to bid.

Q. And the individual companies would not bid against the Export Company?

A. No. They would not bid against the Export Company. The Export Company was bidding against the whole world, you might say, in their business.

Q. With respect to the domestic business?

A. Yes; domestic. There were plenty of other competitors outside of the Export Company. That is the point I wanted to bring out to you. Sometimes the Export Company would get on track of the order and they would take it, and then they would put it up to see which mill was the hungriest to make it; and they would make the profit, if there was any, between the prices. Sometimes they lost money.

Q. State whether or not the Export Company ever took over a low bid made by one of the individual companies that was made by the individual company itself.

A. I do not quite get your question.

Q. Suppose one of the companies that belonged to the Export Company, or was connected with the Export Company, made a very low bid. Would the Export Company ever take over that bid?

A. No.

Q. Did it ever call them to account for the bid?

A. Yes; I think they would ask them why they were so hungry.

Q. What did it do to them for being so hungry? Anything?

A. No. The fellow that was scolded would say: "Do any of you want to make it?" He would put it up to see if some

other fellow would make a less price for rolling the material.

Q. It called them to account if they took it at a very low price? Was that it?

A. No. There was always criticism among sellers, and a fellow to prove his position would put it up again and see if he could not get somebody else to make even a lower price.

MR. LINDABURY: And then he would make the profit?

THE WITNESS: Yes; then he would make the profit; or it would be thrown into the Export Company there and they would make the profit.

By MR. COLTON:

Q. That is, the Export Company, at times, when a man made a very low bid, had him turn it over to the Export Company, with his consent?

A. If there was a profit in it.

MR. LINDABURY: This was all worked out scientifically?

THE WITNESS: We were groping in the dark, finding a way of getting more business. The Government could not tell us how to do it. Who could we go to?

Q. Which of those companies, if any, were members of or connected with that Export Company?

A. I think I just stated those.

Q. You named them from memory?

A. Yes.

Q. I will call off a list of the companies. I do not know which were or which were not. If you recall, say so.

MR. SEVERANCE: He has already named them.

MR. COLTON: I know he has named them from memory. He is entitled to have a list of the names.

MR. SEVERANCE: Are you entitled to tell him which ones?

By MR. COLTON:

Q. William Clark & Sons?

A. Yes.

Q. Lindsay & McCutcheon?

A. Yes.

Q. The Union Iron Company?

A. Yes.

Q. The Pomeroy Company?

A. Yes; and A. R. Whitney.

MR. SEVERANCE: You do not have to give them. Mr. Colton is reading them.

By MR. COLTON:

Q. The Kimberly Company?

A. No.

Q. And, of course, Painter & Sons.

MR. REED: Did you ask him about the Union Iron & Steel Works? Was it in?

THE WITNESS: Yes sir; that is in.

By MR. COLTON:

Q. Were you connected with the organization of the American Steel Hoop Company?

A. Yes; I helped Mr. Guthrie get the options on the different plants, by introducing him to the different manufacturers.

Q. Where did you go in connection with getting those options?

A. Around to the different plants; and oftentimes we would meet them in New York, the different owners.

Q. Whom did you meet in connection with the Union Steel Company?

A. Mr. Wick or Mr. Taylor.

Q. You carried on the negotiations for J. Painter & Sons yourself?

A. Yes sir; I was the individual, I think. Of course I was in constant touch with my uncles.

Q. William Clark & Sons?

A. Yes sir.

Q. Whom did you see in regard to that?

A. I just introduced Mr. Guthrie to Mr. Clark.

Q. Who was Mr. Guthrie?

A. Mr. Guthrie was a partner of Naylor & Company. He was in the brokerage business in Pittsburg here, and the American Steel Hoop Company—

Q. I did not ask about that.

A. All right. I wanted to explain how he happened to come in; because he was selling billetts to different people.

Q. I understand. I will take that up.

MR. REED: Who was selling billets?

THE WITNESS: Mr. Guthrie, of Naylor & Company.

By MR. COLTON:

Q. Who else did you meet in connection with the organization of the American Steel Hoop Company?

A. You mean the manufacturers, or Judge Moore?

Q. Well, Judge Moore and—

A. Judge Moore helped Mr. Guthrie; but he was not a manufacturer.

Q. Did you ever see the underwriting agreement relating to the organization of the American Steel Hoop Company?

A. Yes sir.

Q. Was it printed?

A. As I remember, yes.

Q. Did you subscribe to it?

A. My uncle did.

Q. Was your concern interested in it?

A. We subscribed for some of the underwriting.

Q. What were the terms of the underwriting agreement, as well as you can recall?

A. The payments, or the stock, do you mean?

Q. All the terms of it.

A. I think it was all cash on a certain day or one hundred shares of preferred and one hundred shares of common as a bonus.

Q. For every one hundred dollars you got one hundred—

MR. SEVERANCE: Oh, no; for every ten thousand dollars.

THE WITNESS: For every ten thousand dollars you got one hundred shares of preferred and one hundred shares of common stock.

By MR. COLTON:

Q. I want to ask the question in a different form: For every $100 in cash you got $100 in common, par value, and $100 of preferred, par value?

A. Yes.

MR. SEVERANCE: According to habit?

THE WITNESS: Yes; according to habit and custom.

By MR. COLTON:

Q. How about the American Tin Plate Company? Did you subscribe to that also?

A. I think I got some for my friends. I did not buy any myself.

Q. Was that under the same arrangement?

A. The same arrangement.

Q. How about the National Steel Company?

A. The same arrangement.

Q. And you saw that agreement also?

A. Yes sir.

Q. And the American Sheet Steel Company? That was under the same arrangement?

A. Yes. I think Sheet Steel, or one of them, was a little bit different. That was Tin Plate, was it not, that was a little bit different?

Q. What was the difference?

A. A little more bonus of common in one of those cases, I think. That is only from memory, however. They were all practically the same.

Q. We shall all have to do the best we can from memory here now. They were all practically the same?

A. Practically the same.

Q. And all of them provided, substantially, that for every $100 in cash you would get $100 in common stock, par value, and $100 preferred, par value? Is that right?

A. You put the cart before the horse.

Q. All right; you state it.

A. You got one hundred shares of preferred, and the common was given as a bonus.

MR. LINDABURY: That is, you paid for the one hundred shares at par?

THE WITNESS: You paid for the two.

By MR. COLTON:

Q. Do you know whether options were taken on these different plants or not?

A. Yes.

Q. What did the options represent?

A. The price for cash.

Q. The options were for cash?

A. Yes.

Q. Were you entitled to get anything but cash?

A. No sir.

Q. You became a member in the underwriting syndicate by courtesy, then, did you?

A. Yes.

Q. Were most of the vendors of the plants let into the syndicate to some extent?

A. Yes sir.

Q. To what extent were you let into the American Steel Hoop Company?

A. The percentage on J. Painter & Sons?

Q. Yes.

A. I think about 25 per cent.

MR. LINDABURY: Of their selling price?

THE WITNESS: Of their selling price. The furnace went in, too; the Isabella furnace. We sold both. So that would make about forty or fifty per cent., if you just figure on J. Painter & Sons.

By MR. COLTON:

Q. Do you recall which one of those companies there was more bonus in than there was in the other?

A. No; I could not.

Q. Do you know as to whether the preferred stock represented the amount given in cash options or not in each of those different companies?

A. I do not know any of the other figures.

Q. Did you enter into an agreement to stay out of business?

A. With the exception of certain states.

MR. SEVERANCE: Was that in writing?

THE WITNESS: That was in writing, I think.

MR. SEVERANCE: Then I object to the testimony.

MR. COLTON: We have asked for those papers.

MR. LINDABURY: It would not be good unless it was in writing, as it was affecting real estate.

MR. COLTON: We have asked for the production of those papers repeatedly.

THE WITNESS: It did not amount to anything, they said.

By MR. COLTON:

Q. Have you a copy of it?

A. No, sir.

MR. COLTON: We have served notice in regard to that.

THE WITNESS: It was more of a joke than anything else.

MR. COLTON: Wait a minute; I have not asked any such question as that.

MR. SEVERANCE: He volunteered that.

THE WITNESS: Do you not want to get at the truth?

MR. COLTON: I want to get at the truth but only in answer to my questions.

By MR. COLTON:

Q. Did you enter into an agreement to stay out of the business?

MR. SEVERANCE: Now, this may go in on the assurance by Mr. Colton that he served notice upon us for the production of the agreement.

MR. COLTON: I will get the notice for you.

MR. SEVERANCE: Oh, no.

MR. LINDABURY: Never mind.

MR. SEVERANCE: This goes in, with the understanding that notice has been served upon us, and we have been unable to produce the papers. Unless that notice has been served, we object to the testimony.

MR. LINDABURY: We will withdraw the objection.

MR. SEVERANCE: We will withdraw the objection.

By MR. COLTON:

Q. Have you got that, or a copy of it?

A. I did not sign it, but some of us did. It was treated more as a joke.

Q. You did not know anything about it, then?

A. Yes; I saw it.

Q. Do you know who signed it?

A. No, in the American Steel Hoop Company I do not know who did, because most of the active men went along with the company. Whether some of the active men, like my uncle, signed it or not, I do not know, but I know it was signed by some. There was a form of contract.

Q. Do you know that it was signed by some?

A. I think it was signed by some.

Q. What were the provisions of that agreement?

A. That you could not go into business except in certain states.

MR. LINDABURY: Within a limited time?

THE WITNESS: Within a limited time.

By MR. COLTON:

Q. What were those states; Wyoming and New Mexico?

A. Two or three, or three or four.

Q. It provided that the vendors, whoever they were—

MR. REED: We object to Mr. Colton leading the witness in that way.

By MR. COLTON:

Q. What do you remember about the entire contract?

A. One day they brought it up, and said "Now, is there any danger of anybody going back into the business;" and they said that with some of the other companies there had been a form of contract, and they sent out some of the forms, but they paid very little attention to it.

Q. Who were "they?"

A. Mr. Guthrie and Mr. Moore. They sent out forms, and as the vice-president of the American Steel Hoop Company, I never got any of them back, that I remember of. I saw the forms go out.

Q. You do not know whether they were executed or not?

A. No, I do not.

Q. Were they sent out so as to be sent back to you or to some other officer of the company?

A. They were to be held by the American Steel Hoop Com-

pany, so that we could watch and see if they went into the business.

Q. Do you think they came back?

A. I do not think they did. One or two conscientious fellows might have signed it, but as I say, it was treated as a joke, because one or two of the people did go into the business again, and no suit was ever brought about it.

Q. Had there been any agreement that they would sign such a contract as that?

A. It had been mentioned, but they knew that it would not be a binding contract.

Q. Who were the conscientious fellows that signed the contract?

A. I do not remember. Maybe my uncle, Mr. A. W. Painter, might have; but I am not sure of that.

MR. SEVERANCE: You merely think that because you knew that he was conscientious?

THE WITNESS: Yes.

MR. LINDABURY: Are you not sure about anybody else?

THE WITNESS: We were all in the Hoop Company, so that there was no use of our signing it.

MR. LINDABURY: Of course you might have kicked over the traces.

THE WITNESS: If we had, they would not have said a word to us.

By MR. COLTON:

Q. What was the price at which the Isabella Furnace was to be turned in to the American Steel Hoop Company?

A. I think it was $1,250,000.

Q. And what was the price at which the plants belonging to J. Painter & Sons were to be turned in to the American Steel Hoop Company?

A. I think J. Painter & Sons' were the same figures.

Q. How much of the payment did you receive in stock?

A. Not a cent of it.

Q. Not a cent. That was a cash transaction?

A. A cash transaction.

Q. How much cash did you get, personally? How much

cash would you have got personally if you had taken all of it in cash?

A. All of it.

MR. LINDABURY: You do not mean to inquire into Mr. Painter's affairs, do you?

MR. COLTON: Oh, no.

MR. SEVERANCE: I know you do not care how it was divided among their firm; you mean how much did Painter & Sons get.

By MR. COLTON:

Q. I mean how much did your concern get?

A. I think $1,250,000 cash.

Q. That was for the entire company?

A. We were only half owners of the Isabella Furnace, and that was handled as an entirely different transaction.

MR. SEVERANCE: Oh, yes.

By MR. COLTON:

Q. What proportion of that did you afterward take in stock?

A. My memory is not very good on that. We would have liked to have taken it all, because it was selling at a premium.

Q. You mean the common and preferred, taken together, were selling at a premium?

A. Yes, sir. The underwriting was selling at a premium, which was the fashion those days.

Q. That is, $100 par of common and $100 par of preferred was selling at about what?

A. About $120 to $130.

MR. LINDABURY: It was $129, to be exact.

THE WITNESS: $129. Well, I was pretty close to it.

MR. LINDABURY: Yes.

THE WITNESS: Everybody would have liked to have taken every cent they could, in underwriting, but they were cut down.

By MR. COLTON:

Q. The underwriters did not let them in?

A. They did not let them in, because they were more than subscribed. I do not remember the exact figures, because the Isabella Furnace had complicated things with J. Painter & Sons. We were half owners of the Isabella Furnace, and we sold the plant with the other owners, and they agreed with my uncle to let it go in.

Q. Do you remember how much you received in stock?

A. I think we got about 40 per cent in stock—had the right to subscribe to that much. Now, do get in your head, once and for all, that the American Steel Hoop Company paid everybody cash, and it was a privilege to get the stock. I had friends come after me and beg me to use my influence with Mr. Guthrie to get more of the underwriting. Mr. Guthrie and Mr. Moore cut everybody off with the actual cash, and then they went into an entirely different transaction and subscribed with the underwriters, exactly as an outsider would. Do you not see; we would have liked to have taken the whole thing in stock, and then sold it on the market. We could have sold the underwriting there, just as you say, at $129.

Q. You took about 40 per cent in stock, as I understand it?

A. Yes.

Q. And for that 40 per cent that you took in stock, for every $100 in cash you got $100 preferred, par value, and $100 common, par value?

A. Yes, sir.

MR. REED: What is the advantage of showing that so often?

THE WITNESS: Those were the prevailing rates at that time.

MR. COLTON: He is your witness.

MR. SEVERANCE: I think he is.

THE WITNESS: I mean of underwriting.

By MR. COLTON:

Q. What do you mean by "underwriting?"

A. On the underwriting you got $100 of preferred and $100 of common for $100.

MR. LINDABURY: In anything?

THE WITNESS: In anything—anything that was going.

MR. COLTON: That is what I wanted to know.

CROSS EXAMINATION,

By MR. REED:

Q. You said you had introduced Mr. Guthrie to the different hoop manufacturers when he went about taking the option for the hoop company?

A. Yes, sir.

Q. Will you tell us how many manufacturers of hoops and cotton ties and other products that your mills made there were that did not go into the American Steel Hoop Company?

A. About four or five.

Q. You have told us about A. R. Whitney & Company.

A. Oh, the Export Company? Are you speaking of the American Steel Hoop Company or of the Export Company?

Q. Of the American Steel Hoop Company.

A. Of the Steel Hoop Company?

Q. I want to know how many producers of steel hoops and cotton ties and similar products did not get taken into the American Steel Hoop Company?

A. A whole lot, if you take the small mills in the East.

Q. There was A. R. Whitney & Company?

A. Yes; he went in.

Q. He went in?

A. Yes; that is the Duncansville plant.

Q. That is the Portage Iron Company?

A. Yes.

Q. There are two mills, at Warren and Girard, called the Union Mills?

A. Yes; they went in.

Q. Did they go into the American Steel Hoop Company?

A. Yes.

Q. Now give me the names of some that did not go in?

A. The Illinois Steel Company, the H. P. Nail Company.

Q. They both made cotton ties?

A. They both made cotton ties and hoops. Then there

was the company at this little mill town in New Jersey, near Princeton, on the canal.

Q. At New Brunswick?

A. No; where the Pennsylvania is straightening out the tracks now.

Q. At Rahway?

A. Not Rahway. Then, pretty nearly all the eastern iron mills could make iron hoops. You see, take the Illinois Steel Company. If they were rushed, they paid no attention to these smaller things, but as soon as a bar mill got a little slack, they looked over into our territory, and they were able to make hoops and bands. Cotton bands they were always anxious to make, everybody; they had a halo around them. So it is hard to say that there was an eastern iron mill that could not jump in and make hoops and bands when their business was slack.

Q. Did they do it?

A. Yes, sir; and they would cut prices, at times, most outrageously

Q. There were a number of these eastern iron mills that were able to make them when the demand was great enough?

A. Yes.

Q. The Carnegie Steel Company made them, did it not?

A. Yes.

Q. And Atlanta?

A. Atlanta made them.

Q. And what others?

A. There was a mill in St. Louis.

Q. What was its name, do you know?

A. No; they afterwards got quite a good mill out of it.

Q. You have named six besides these miscellaneous eastern mills.

A. Yes.

Q. What was the occasion for the organization of the Steel Hoop Company?

A. The evolution from iron to steel.

Q. Originally bands, hoops and cotton ties were made of puddled iron, were they not?

A. Puddled iron; yes, sir.

Q. When did the change from puddled iron to steel come about?

A. As the price of steel got down to below the puddled iron.

Q. In 1900, when the Steel Hoop Company was formed, did it cost more to make a band of puddled iron than it did of steel?

A. Yes, sir. That is, if you could get your steel.

Q. Well, I am asking about normal conditions in the market.

A. Yes.

Q. And the steel bands were just as good as the iron bands, of course?

A. Better.

Q. So that when the price came down to that point it displaced the old puddled iron band?

A. Yes, absolutely. You had to tear down your puddling furnaces and go and buy steel billets.

Q. So that you bought your steel in billetts?

A. Yes.

Q. From what firm were you accustomed to buy your steel billets after you started to manufacture steel?

A. From Jones & Laughlin; Carnegie; Schoenberger, and wherever we could get them. We bought from a firm at Youngstown, and from Steubenville.

Q. Now, after the new conditions came about in the steel business in 1899, did you have any difficulty in getting a supply of billets?

A. We were told when our contract ran out with the Carnegie Company that they could not furnish us any more.

Q. What was the reason of that?

A. They were using it up themselves.

Q. The growth of their business was such that it required more billets?

A. More billets.

Q. Did that shake your confidence in being able to get a supply of billets for your mill?

A. Absolutely. We were right up against the alternative of building a Bessemer plant, or else getting together and getting our supplies.

Q. Was J. Painter & Sons big enough to build a Bessemer plant?

A. We had a half interest in a furnace; but it meant putting out a good deal more money, so much that my uncle did not care about entering into it.

Q. The firm as it stood was not big enough? It would have required additional subscriptions from their private funds?

A. More than that. You would have had to go out and sell to other people, too. You would have had to go into a business beyond your business. You could not build a small enough Bessemer plant to use it economically and make the cheap steel and use all your product yourself. You would have to sell it in the open market.

Q. You could not build a Bessemer plant that would make Bessemer billets economically without building one so big that it would make far more steel than you could use?

A. That is it, exactly.

Q. In what shape were these six mills that did not go into the Steel Hoop Company?

A. A little worse than we were, because they did not have any pig iron to trade for billets.

Q. Your half interest in the Isabella Furnace protected you to some extent, did it?

A. To some extent. You could even make a conversion deal; take your pig iron, and if the steel company needed it, let them have the pig iron at so much a ton, and they would convert it into steel for you.

Q. That protected you to some extent?

A. To some extent.

Q. These other companies, I fancy, did not have any such protection?

A. No, sir.

Q. Do you know of your own knowledge that they were in difficulty——

A. William Clark & Sons had a very small open hearth

furnace that was rather expensive to run, and did not give them anything like the steel they needed.

Q. They had to buy their billets elsewhere, did they?

A. They had to buy their billets elsewhere; yes, sir.

Q. Do you know of your own knowledge that those other band makers were short of raw material at that time?

A. That was what occasioned the formation of the American Steel Hoop Company at that time, through the efforts of Mr. C. S. Guthrie, who conceived the idea of putting them together, and drawing their supply from the National Steel Company.

Q. Mr. Moore was interested in the National Steel, was he not?

A. Yes, sir.

Q. Was it felt that his interest in the two companies would tend to protect the band makers?

A. Yes.

Q. In securing their supply of billets?

A. In securing a uniform and regular supply.

Q. You were familiar with the operations of the Steel Hoop Company after the consolidation, were you not?

A. Yes, sir.

Q. Did you put prices up?

A. No, sir. If anything, the demand of the country put prices up, and the jobbers and the buyers of the company that had had things their own way so long immediately got scared and all came in and wanted to get backed up, and they were the ones that really advanced the prices.

Q. Take the first year after the formation of the Hoop Company. Were prices on the average as high during that year as they had been the year before?

A. With the demand that we had, if they had been separate, we would have had them five or ten dollars a ton higher, because in the old days, when we caught the country in the right situation we put the screws on, but then just as soon as the jobber caught us, he put the screws on us the same way. It was either a feast or a famine. And the way they ran the first year of the Hoop Company, if we had been separate, we

would have made a great deal more money than we made. We would be making more out of the jobber at one time, but then he would get back at us again. In the first year of the Hoop Company we sat on the safety valve as much as we tried to jack it up; and the first year or so we spent most of the time trying to get our mills perfected, and a great deal of money was spent in bringing them to the standard, the highest standard.

RE-DIRECT EXAMINATION,

By MR. COLTON:

Q. Was Mr. Guthrie in the hoop and band and cotton tie business?

A. No, sir.

Q. Do you know of your own knowledge that none of these companies were connected or had an interest in furnaces or billet mills?

A. Yes, sir; with the exception of William Clark & Sons. They had an open hearth furnace.

Q. And your own company?

A. Our own company had a half interest in the Isabella Furnace Company.

Q. Were prices higher in the year 1899 than they had been in 1898?

A. Yes; they were higher in 1899. Let me explain——

Q. That answers my question. When did you sever your connection with the steel hoop business?

A. When they moved to New York in 1901, I think.

Q. Have you yourself been engaged in the steel business?

A. No, except as a director.

Q. You have kept special track of the steel business since then?

A. Yes, sir. I have kept a very close track of it, because I am a director in certain companies.

Q. What companies?

A. The Morris & Bell Steel Company and the American Pipe & Foundry and the Standard Chain Company, up until the time of my failure, when I dropped out.

RECROSS EXAMINATION,

By MR. REED:

Q. What was the reason why the prices were higher in 1899 than they were in 1898?

A. Is that the way you work it in?

MR. DICKINSON: Put that down, Mr. Stenographer.

THE WITNESS: I am sorry if I have offended you, Judge Dickinson.

MR. DICKINSON: Oh, you have not offended me.

THE WITNESS: We want to get to the truth of this matter.

MR. DICKINSON: There is nothing personal about it.

THE WITNESS: After the American Steel Hoop Company was formed, the buyers of the company thought that the price would be jacked way up. Trade was good. They came in and wanted to buy a great deal more than they could consume, and they naturally forced prices up on themselves.

By MR. REED:

Q. That was in 1899?

A. Yes.

Q. You stated that in answer to Mr. Colton's question, that prices were higher in 1899 than in 1898.

A. Yes, sir.

Q. The Steel Hoop Company was not formed until 1900, was it?

A. I am probably getting the years mixed up.

MR. SEVERANCE: Did you intend to testify as you did about 1899?

A. Yes, 1899; in that year prices were higher than in 1898, because we were coming up on a graduated scale, if my memory serves me correctly. But I would think it was the year after the Hoop Company was formed. It seems I may be wrong in that.

MR. COLTON: Who said the Hoop Company was not formed in 1899?

MR. REED: The company was incorporated in April, 1899, but did not go into operation until some months afterward.

THE WITNESS: Then I am right; the prices were higher in 1899 than in 1898.

By MR. REED:

Q. Mr. Colton asked whether they were, and you said yes. Now I ask you for the reason. Of course, for the first part of the year 1899 the formation of the Hoop Company could not have had any effect on prices, because it was not formed.

A. When it was in process of forming, the buyers took fright.

MR. REED: That is all.

MR. DICKINSON: We have no other witnesses this afternoon.

(Whereupon, an adjournment was taken until tomorrow, Friday, October 4, 1912, at 10:30 o'clock, A. M.)

TWENTY-FIFTH DAY.

Room 309 Federal Building,
Pittsburg, Pennsylvania.

October 4, 1912.

The hearing was resumed at 10:30 o'clock a. m., before SPECIAL EXAMINER HENRY P. BROWN.

Present on behalf of the United States, MR. DICKINSON, MR. COLTON and MR. CORNEAU.

Present on behalf of the defendants, MR. LINDABURY, MR. SEVERANCE, MR. BOLLING and MR. REED.

J. P. WHITLA,

a witness produced by and on behalf of the United States, having been first duly sworn, testified as follows:

DIRECT EXAMINATION,

By MR. DICKINSON:

Q. Where do you reside?

A. Sharon, Pennsylvania.

Q. What is your age?

A. Forty-seven.

Q. If you were connected at any time with the Sharon Steel Company, please state when your association with that company began and how long it lasted?

A. I was the attorney for the company from its organization in October, 1899 until September 1, 1900, when I, from that time on, gave my entire time to the company.

Q. Did you have any interest in it as owner of stock?

A. Yes sir; I was a stockholder.

Q. Did the Sharon Steel Company own or have an interest in any other companies or operations? If so, state what they were and what kind?

A. The Sharon Steel Company was the owner of the ma-

jority of the stock of the Sharon Tin Plate Company. It owned all the stock of the Sharon Ore Company. It owned all the stock of the Sharon Coke Company and all the stock of the Sharon Sheet Steel Company, and two-thirds of the capital stock of the Sharon Coal & Limestone Company.

Q. When the Sharon Company was combined with the Union Company, under what name was that new company?

A. The Union Steel Company.

Q. Did or did not all of these companies you have mentioned as being controlled or owned by the Sharon Company go over to the Union Steel Company under this merger or combination?

A. All of the interests of the Sharon Steel Company in those properties went to the Union Steel Company.

Q. At the time of the merger of the Sharon Steel Company with the Union Steel Company had the Sharon Steel Company then in operation any blast furnaces? If so, how many, and of what capacity?

A. At the time of the merger it had in operation one blast furnace.

Q. Of a daily capacity of what?

A. My recollection is that the furnace was 22 by 100. I presume that, at that time, it was making, say, 500 tons of iron a day.

Q. Gross tons?

A. Yes.

Q. Did it or not have under construction any other blast furnaces at the time of that merger? If so, how many and what was their estimated capacity?

A. Yes; there were two additional blast furnaces under construction which have since been completed. Those furnaces are not so large. I think those furnaces were 18 or 19 by 85; probably 350 to 400 tons a day.

Q. Each?

A. Yes.

Q. Did it have any tube mills under construction?

A. Yes; it had under construction a universal plate mill and a tube or pipe mill.

Q. Can you give any idea of the capacity of those, respectively?

A. No, I cannot.

Q. State whether or not the Sharon Steel Company put in operation any open hearth steel furnaces, and during what year and haw many and what was their capacity.

A. Yes; in the spring of 1901; I cannot fix the time; probably April or May, they started making steel in their open hearth plant, which consisted of twelve fifty-ton furnaces.

Q. I suppose you are speaking, all the time, of gross tons?

A. Yes.

Q. Prior to and just preceding the sale of the combined properties of the Union and the Sharon Steel Company to the United States Steel Corporation, state whether or not those companies had under way plans for the construction of basic open hearth steel furnaces, and if so how many and what was their estimated capacity.

A. The Sharon Company had under way plans for the construction of some additional open hearth furnaces in an engineering way. I do not know whether it had gotten beyond the drawing room or not; and I think that there was in contemplation possibly five or six additional open hearth furnaces.

Q. Had the construction or not been determined upon by the company?

A. I could not say as to that. I am quite clear that plans were under way in an engineering way; but whether there had been any formal action looking toward their construction or not I cannot now recall.

Q. State whether or not during the years 1900 and 1901 the Sharon Company built and put into operation any heating furnaces and any soaking pits.

A. Yes. The soaking pits are a necessary part of the rolling operation of a steel plant; and they had the necessary soaking pits to keep their ingots hot.

Q. Were those continuous heating furnaces?

A. Yes.

Q. How many were there?

A. Either three or four furnaces for the heating of mate-

rial for the bar and billet mill. I am not sure whether it was three or four.

Q. Did it have in operation any trains of rolls? If so, how many?

A. We had a blooming mill, and beyond that——

Q. Was there anything for bars?

A. (Continuing) And beyond that, a combination billet and bar mill for the making of small billets and for the making of sheet tin bars.

Q. Anything for wire drawing?

A. And beyond that again they had two continuous rod mills.

Q. Did it have anything for wire drawing blocks?

A. Yes; they had a wire drawing plant.

Q. How many?

A. I think about 200 blocks in the wire mill.

Q. Did it have any wire nail mills?

A. A nail factory. I do not remember the number of machines, but we had a capacity of about 3,500 kegs of nails a day.

Q. During that period please state what were the products of the Sharon Company.

A. Blooms and slabs, billets, sheet and tin bars, rods, wire, including plain and galvanized and barbed wire and wire nails.

Q. At the time that the Union and Sharon combined company was taken over by the United States Steel Corporation state whether or not the Sharon Company had a tin plate mill plant.

A. There was a tin plate company in which the Sharon Steel Company owned a majority of the interest.

Q. How many mills did that consist of?

A. Twenty mills.

Q. State whether or not it had under construction any sheet mills at that time.

A. It had under construction, under the name of the Sharon Sheet Steel Company, a sheet mill.

Q. How many mills?

A. That finally consisted of ten mills.

Q. You have already stated, I believe, that it had ore properties?

A. Yes, sir.

Q. Where did the Sharon Steel Company sell, in what part of the country, I mean, its wire rods and barbed wire and nails? I mean before its combination with the Union Steel Company.

A. Most of our rods we used in our own operation, drawing them into wire and finishing them into nails; we only sold a small tonnage of rods, and those we disposed of in markets that were adjacent to our property, some in the Pittsburgh district, some in the Chicago district and wherever else there was an advantageous market for our rods. Our nails and wire we disposed of to the hardware trade, in the main, and I presume that 75 per cent. of our product went to western points.

Q. Did you sell it or not generally throughout the United States?

A. Yes.

Q. Did you or not, at the time of that combination with the Union, sell in competition with the Union Steel Company?

A. Yes, sir.

Q. Did you not sell at that time in competition with the American Steel & Wire Company of New Jersey?

A. Yes, and with many others.

Q. And with other makers?

A. Yes.

Q. What was the wire nail capacity annually?

A. I should say roughly a million kegs a year, if we were running to our maximum capacity for a full year.

Q. State whether or not you have any recollection as to the American Steel & Wire Company reducing the price on nails, wire, galvanized wire and galvanized barbed wire, on or about October 2, 1902, and whether or not your company had its attention brought to it by you, and a determination was reached to meet that price.

A. I remember that in the fall of 1902 there was a reduc-

tion in the price of wire products, and that we then, as always, met the market, whatever it was.

Q. In the minutes, as they appear in evidence in this record of the directors of the Sharon Steel Company, appears the following:

October 2, 1902. Policy on nails and wire. In view of recent cut, Mr. Whitla stated that the American Steel & Wire Company has reduced the price on nails to 1.85 base; wire to 1.75; galvanized wire, 2.45; galvanized barbed wire, 2.15; and it was determined that we should meet this price. There being no further business, the meeting adjourned.

T. A. HARRIS, Secretary.

Do you recall anything about that circumstance of the cut referred to there?

A. As I stated, I recall that in the fall of 1902 there was a reduction in the price of nails.

Q. According to your recollection, is that a correct statement of what occurred?

A. Yes; as I recollect it, that is correct.

Q. What was the condition financially as to solvency of the Sharon Company immediately prior to the sale of its properties to the United States Steel Corporation?

A. The company was solvent.

Q. Prior to its merger, then, with the Union Steel Company?

A. It was solvent.

Q. State whether or not up to that time it had ever experienced any financial embarrassment.

A. It had not.

CROSS EXAMINATION

By MR. LINDABURY:

Q. How came you to sell to the Steel Corporation?

A. The Sharon Steel Company had grown very much beyond what any of its founders had anticipated for it. Some of the men who were most active in the company had private business interests that were being sacrificed by so much as

they were compelled to give their time to the Sharon Steel Company. The price that was offered for it seemed a fair one, and they chose to take advantage of the opportunity to sell.

Q. Do you remember how the negotiations started; that is, from which side they were started?

A. I do not.

Q. Did you have a participation in it?

A. Not at the outstart. I was a party to the negotiations midway and at the conclusion of them, but not at their inception.

Q. Who of the gentlemen connected with the new company was it that for personal reasons were anxious to sell out and get out of the business?

A. Mr. Darr was the president of the company and his own business interests had taken him away from Pittsburgh to New York, and if I were to name particularly any one of the company who was inclined to sell, it would be Mr. Darr; and I assume, for the reason of his business having taken him farther away from the operations of the company.

Q. What was his general business?

A. He was a broker in New York City.

Q. Do you remember the name of the firm?

A. The name of the firm at that time was Darr, Luke & Moore, I suppose.

Q. What about Mr. Donner; was he anxious to sell out?

A. He was connected with the original Union Steel Company, not the Sharon Steel Company, and so I am not familiar with Mr. Donner's mental attitude at all.

Q. And how about Senator Flynn? He was interested, was he not?

A. Senator Flynn had a large interest in the Sharon Steel Company, and had large personal interests, as well. I think Senator Flynn's attitude toward the sale was somewhat one of indifference, possibly.

Q. Neither of those gentlemen, neither Senator Flynn nor Mr. Darr, I suppose, was a practical steel man?

A. They were not.

Q. Who was relied upon, if you remember, when these gentlemen went in, to carry out the business actively—was it Mr. Stevenson?

A. Mr. Buhl was originally president of the company, and when he retired from the company in 1901, Mr. John Stevenson became general manager of the company, and had charge of the operations of the company from that time onward.

Q. Mr. Stevenson retired in 1901?

A. Mr. Buhl, I said.

Q. I mean Mr. Buhl.

A. Yes.

Q. What price, or on what basis, was the price fixed for the sale to the Steel Corporation?

A. The price to the Steel Corporation was based upon the price of the properties that entered into the consolidated Union Steel Company. In November, 1902, the Union Company and the Sharon Company effected a consolidation, based upon the agreed values of their respective properties, and when the Steel Corporation purchased the Union Steel Company they took it upon the values that had been fixed upon the properties for the purpose of consolidating the Sharon and Union Companies. The value that was placed upon the Sharon property, as I recall it, was that the plants, the mills, went into the consolidation at cost. The ore and coal properties went in at an agreed upon price. The Sharon Company was allowed for the profits which they had made in the operation of their plants, all of which had gone back into the business, and an agreed upon price for the vacant land which they had for further extensions of their plant. I think those items practically cover the consideration.

Q. Were you sufficiently familiar with the ore properties and coal properties to tell whether or not the price at which they were put in in the sale to the Steel Corporation was their true value?

A. I think so far as the value of the ore properties went in, that it was a very modest valuation for the ore properties. The property which the Sharon Company contributed had been drilled to the extent of showing that there was at least 20,000,000 tons of ore in the ground. It was a fee property,

upon which no royalty was to be paid, and the valuation of $5,000,000 for that property would mean 25 cents a ton for the ore in the ground; and the physical properties of the ore made it one of the very desirable properties on the Mesabi Range. I cannot answer as to the properties that were contributed by the Union Company, for I am not familiar with them.

Q. Did the Sharon Company contribute any other than these ore properties you have mentioned?

A. Only the one ore property.

Q. No coal property?

A. Yes.

Q. What about that coal property?

A. The Sharon Company had, I think, about 1300 or 1500 acres of coking coal in Fayette County. I do not recall the exact price at which it was contributed, but I think it was at a price which was based on about what was the then market value of similar properties, and at a price which was regarded by everybody interested as being a fair value for the coal properties.

Q. Then, taking the properties sold to the Steel Corporation all together, did the price exceed their value, in your opinion?

A. It did not.

Q. Did the Sharon Companies have coke ovens as well as coal and coke property?

A. They had 212 Otto Hoffman by-product ovens under construction at Sharon at the time of the sale; they were not yet in operation.

Q. Perhaps you do not know, and if not, you, of course, will not tell us; but if you do, I should like to know whether you happen to know what of these properties the Steel Corporation has special need of; how they were off for open hearth furnaces?

A. I cannot answer that question.

Q. Very well, then, of course you will not. At the time the Sharon and Union properties were put together, was there then any purpose or suggestion of selling out to the Steel Corporation, as far as you know?

A. Not to me; and I had never heard of any such until the actual negotiations were on foot for the sale to the Steel Corporation.

Q. Were there any pools existing at the time of this sale, —pools to which you were a party, in Steel products?

A. No. The nail manufacturers were accustomed to meet about every thirty days in Chicago and talk over trade conditions and usually misrepresent to each other what they had done during the preceding thirty days, and agree about what would be a fair price for the ensuing thirty days.

Q. Was the Steel & Wire Company in that friendly interchange of misinformation?

A. I think they knew what was going on, but never, so far as I know, took any part in any of those meetings at all. I never met a representative of the American Steel & Wire Company at any of these meetings.

Q. Were there other manufacturers at this time of wire products besides the Sharon and the Steel & Wire Company?

A. Oh, yes; a great many.

Q. Powerful ones; important ones in the trade?

A. Important, yes.

Q. Name some of the principal ones other than the Steel & Wire and the Sharon.

MR. DICKINSON: At what period are you asking about, Mr. Lindabury?

MR. LINDABURY: Two or three years preceding the sale to the Steel Corporation; say 1902, if that is any easier. The sale was in 1903, was it not?

THE WITNESS: In December, 1902.

By MR. LINDABURY:

Q. Well, for a year before that?

A. The Grand Crossing Tack Company at Chicago, the Kokomo Wire & Nail Company, of Kokomo, Indiana. There were either two or three very considerable manufacturers of nails at Ironton, Ohio; I cannot recall the names of those, but they were very important factors in the trade, on account of their geographical location. There was the Alabama Steel & Wire Company in the South. There was the Union Steel

Company here at Donora, which was afterwards one of the merged companies. The Pittsburgh Steel Company was just coming into the market. They had not been very active at that time. There were others, but I do not recall them.

Q. Pittsburgh Steel was projected on a large scale, was it not?

A. Yes sir.

Q. And has become an important concern?

A. Yes.

Q. Was the sale to the Steel Corporation on account of any oppressive practices on the part of that corporation, or any threats or any movement that was threatful to your company?

MR. DICKINSON: I except to that an incompetent and irrelevant.

By MR. LINDABURY:

Q. What do you say to that?

A. No sir.

MR. DICKINSON: I also except on the further ground that the witness stated that he did not know what led to the initial negotiations.

By MR. LINDABURY:

Q. Were you actuated, so far as you took part in the sale of your company to the Steel Corporation, by any fear of the competition of the Steel Corporation, or by any oppressive or unfair tactics or policy pursued by them?

A. No sir. We were always able to get our fair share of the business in competition with them.

Q. So far as it came to your knowledge, or you had information, was there anything in the practice of the Steel Corporation, in so far as it manufactured any products that your company were manufacturing, that was unfair or threatful to the trade or to competitors

A. Not to my knowledge.

MR. LINDABURY: I think that is all.

REDIRECT EXAMINATION,

By Mr. Dickinson:

Q. You say that at the time these combined properties were taken over, and previous thereto, you had always gotten your fair share of the trade in competition?

A. Yes.

Q. You have mentioned some other companies that were not in the American Steel & Wire Company. One was the Grand Crossing Tack Company. Did that make any nails?

A. Oh, yes.

Q. To what extent?

A. I never was in the Grand Crossing Tack Company's plant, but I think they made quite a considerable tonnage of nails. At least, they were quite active in the market.

Q. Did they make tacks, too?

A. I think they did; and originally I think that was their exclusive business; then they enlarged the scope of their business.

Q. You do not know to what extent they were making nails at that time?

A. No; except that they were an active element in the trade.

Q. Did they make wire rods?

A. Yes.

Q. Themselves?

A. Yes.

Q. Did they purchase any from your company?

A. I rather think they did, Judge; and during the period of our operations they installed a rod mill of their own, and manufactured, at a later date, their own steel. They now, I believe——

Q. I am not speaking of now.

Do you know the capacity at the time the Union Steel properties were taken over by the United States Steel Corporation of the Kokomo Wire & Nail Company?

A. No, sir; I do not.

Q. You said there were two or three important nail mills

in Ohio, without mentioning their names. Do you know their capacity?

A. No; except that they had quite considerable factories, and they were large buyers of nails.

Q. Did you know the capacity of the Alabama Steel & Wire Company in the South?

A. No; I did then, but I do not now recall it. They were large manufacturers, however.

Q. Do you know, of your own knowledge, that any of those you have named had as large a capacity as the Union Steel Company at the time it was taken over by the United States Steel Corporation?

A. Singly I do not believe that any of them had as large a capacity as the Union Steel Company at the time it was taken over by the United States Steel Corporation.

RE-CROSS EXAMINATION,

By Mr. Lindabury:

Q. Does the Grand Crossing Tack Company now make its own steel, if you know?

A. They have the facilities for making their own steel; whether they make their own steel or not I do not know.

FRANK L. CLARK,

a witness produced by and on behalf of the United States, having been first duly sworn, testified as follows:

DIRECT EXAMINATION,

By Mr. Colton:

Q. Mr. Clark, what is your present business?

A. I am not actively engaged in business.

Q. When did you go out of business?

A. About two years ago.

Q. In what business were you engaged during the period from 1885 to 1898?

A. Manufacturing steel and steel hoops.

Q. When did you go into the manufacture of steel and steel hoops?

A. My father was in it, and I began when I was a mere boy.

Q. I am speaking of your own experience in the business.

A. I say I went into the business when I was quite young myself, with my father.

Q. You were engaged actively in the business from 1890 on?

A. Yes.

Q. With what company were you connected?

A. William Clark & Sons Company.

Q. What was your position with the company?

A. President.

Q. Do you know what products were manufactured by the Union Steel Company?

A. Of Youngstown?

Q. I mean the Union Iron & Steel Company.

A. Of Youngstown?

Q. Yes.

A. They manufactured hoops and bands and bars, and special shapes.

Q. State whether or not they manufactured bolts, nuts and agricultural implements.

A. I do not think they made them. I am not sure, however.

Q. What products did J. Painter & Company manufacture?

A. Hoops and bolts and cotton ties and a little bar; not much, however.

Q. What products did William Clark & Sons Company manufacture?

A. The same line. No bars, however.

Q. What products did the Lindsay & McCutcheon Company manufacture?

A. The same lines.

Q. What products did the P. L. Kimberly Company manufacture?

A. They made hoops and bands and bars.

Q. What products did the Pomeroy Iron & Steel Company manufacture?

A. Hoops and bands and bars.

Q. What products did the Portage Iron Company, Limited, of Duncansville, Pennsylvania, manufacture?

A. They made wire hoops and bands and bars.

Q. State whether or not they manufactured cotton ties.

A. Yes; cotton ties I include all the time in hoops and bands.

Q. State whether or not those companies were in general competition with one another throughout the United States in the sale of those products.

A. They were.

Q. Were you generally familiar with the band and cotton tie business at that time, or during that period?

A. Yes, sir.

Q. That period extends up to what date, of which you are now speaking?

A. Clear up to 1901.

Q. I will ask you the same question for the period from 1890 to the formation of the Amerian Steel Hoop Company.

A. I was in it all that period.

Q. State what percentage of the product manufactured by the various companies manufacturing hoops and bands and cotton ties was acquired by the American Steel Hoop Company, as nearly as you can.

A. Do you mean capacity or actual output?

Q. Output.

MR. REED: One moment, Mr. Colton. Do you mean——

MR. COLTON: Let him answer as to both.

MR. REED: Wait a moment.

MR. COLTON: I think that is all right.

MR. REED: I do not. That is the reason I am making an objection. If you mean output, I object to the question be-

cause it does not ask for the percentage of output in any particular year, and therefore is too indefinite.

MR. COLTON: I will withdraw the question.

By MR. COLTON:

Q. What percentage of the output of cotton ties and hoops and bands was manufactured by the Hoop Company during the period immediately preceding the formation of the American Steel Hoop Company, as nearly as you can state it?

A. They did not make half of the cotton ties at that period. As to the hoops and bands, it is pretty hard to estimate that—strictly hoops and bands. It would be a very large percentage, however.

Q. State it as nearly as you can?

A. I do not know. Probably 75 per cent.

Q. Name the hoop and band companies that were not taken into the American Steel Hoop Company.

A. These were the only strictly hoop and band companies. There were other companies that also made hoops and bands. The Illinois Steel Company, Jones & Laughlin and Cambria, at times made them.

Q. Was not Cambria making them before the formation of the American Steel Hoop Company?

A. Yes, at times. Then there was a plant at Bristol, Pennsylvania, that made hoops and bands.

Q. Name any large company manufacturing those products not taken over by the American Steel Hoop Company, other than the Illinois Steel Company, manufacturing cotton ties.

A. Jones & Laughlin. They were larger than all of us combined.

Q. Were they manufacturing more cotton ties at that time?

A. No, but they had a larger capacity. They had mills that could make them.

Q. They were not manufacturing a large output at that time, were they?

A. No, not specially at that time. They did at times, depending on their trade. If their trade was dull in bars they

jumped on hoops pretty largely. They were after any good big contract most any time on hoops.

Q. After the formation of the American Steel Hoop Company, state whether or not the American Steel Hoop Company manufactured cotton ties in competition with the Illinois Steel Company?

A. They did the first year.

Q. Do you know anything about the extent of the sales of the Illinois Steel Company during the first year of the formation of the American Steel Hoop Company?

A. They furnished about one-half the cotton crop.

Q. Would that cover about one-half the output?

A. Yes.

MR. SEVERANCE: Who do you mean by "they"?

THE WITNESS: The Illinois Steel Company.

By MR. COLTON:

Q. Did the Illinois Steel Company quit manufacturing cotton ties at that time?

A. I do not know whether they ever made them after that or not.

Q. Did the Carnegie Steel Company manufacture any cotton ties at that time?

A. No.

Q. What companies did the American Steel Hoop Company sell bar steel in competition with?

A. Oh, there is quite a list of them.

Q. Name them.

A. The Carnegie Steel Company; the Republic Steel Company; Jones & Laughlin; the Illinois Steel Company; Cambria. And then there were a lot of smaller concerns.

Q. Those were the largest competitors?

A. They were the largest competitors.

MR. REED: Did you name Jones & Laughlin?

THE WITNESS: I do not know whether I did or not. I should name them.

By MR. COLTON:

Q. From whom did the American Steel Hoop Company get their supply of billets after its formation?

A. Some from the Carnegie Steel Company and some from the Ohio Steel Company.

Q. State whether or not the American Steel Hoop Company had large contracts for the purchase of billets from the Carnegie Steel Company at that time.

A. The time of the formation?

Q. Yes, and afterwards.

A. Fairly large. I would not say they were large, but fairly large contracts.

Q. State whether or not at the time of the formation of the American Steel Hoop Company you entered into a contract to keep out of the hoop and band business in all or some of the states of the United States.

A. Yes, I did. I signed such a contract just before—

Q. (Interposing) Give the terms of that contract as near as you can.

A. I do not remember what it was. Some western states were left open. I expected to go into the Hoop Company at that time, and so it did not make much difference.

Q. You expected what?

A. I expected to go along with the Hoop Company at the time, which I did.

Q. State whether or not that was a printed contract.

A. I do not recall it.

Q. State whether or not the states in which that contract permitted you to engage in business were then steel manufacturing states.

A. No, they were not.

Q. With whom were your first negotiations in respect of Clark Sons & Company merging into the American Company?

A. I think they were with Max Pam.

Q. Who was Max Pam?

A. He was a New York man.

MR. SEVERANCE: In Chicago at that time, was he not?

THE WITNESS: Chicago, possibly.

By Mr. Colton:

Q. Who else?

A. C. S. Guthrie.

Q. Anyone else?

A. No, I do not think so.

Q. State whether or not you ever had any negotiations with Judge Moore.

A. No, I never did.

CROSS EXAMINATION,

By Mr. Reed:

Q. Mr. Clark, you have stated that the constituent companies of the American Steel Hoop Company at the time they went into the American Steel Hoop Company were making less than 50 per cent of the output of cotton ties. I do not want to ask you as to output, but I wish you would tell us what at that time was their percentage of the capacity of the country for making cotton ties.

A. They could have made them all. You mean the Illinois Steel or the American Steel Hoop Company?

Q. The American Steel Hoop Company and its constituent companies. What was their capacity in proportion to that of the rest of the country? In other words, what percentage of all the country's capacity for making cotton ties went into the Steel Hoop Company?

A. About one-half, I should think.

Q. Take all kinds of hoops and bands. What proportion of the capacity of the country—I am not asking about output, but of the productive capacity of the country—went into the American Steel Hoop Company?

A. Not over one-half.

Q. How about merchant bars? What proportion of the productive capacity of the country of mercant bars went into the American Steel Hoop Company?

A. Oh, it would be very small.

Q. That is not very definite.

A. Not over five per cent or ten per cent, I would say.

Q. So it was not a bar monopoly, anyway, was it?

A. It certainly was not.

Q. In your estimate of 50 per cent of hoop and band capacity, do you take into consideration the capacity that the Illinois Steel Company had, Jones & Laughlin, Cambria and this plant at Bristol, and the Atlanta Plant?

A. That is a fact, I forgot the Atlanta plant.

Q. And the H. P. Nail Company?

A. Well, it is a question whether it would be 50 per cent. I had forgotten the Atlanta plant and the H. P. Nail Company.

Q. It is very doubtful in your mind, is it not—

A. (Interposing) Whether they could actually have made one-half of it. No, I do not think they could.

Q. In other words, if all the mills of the country that were capable of turning out hoops and bands had run to their full capacity, is it not very doubtful in your mind whether the American Steel Hoop Company's capacity would have been as much as 50 per cent?

A. Yes, I think it would be a question, now that you put it that way.

Q. You are talking now about the spring or summer of 1899, when the American Steel Hoop Company was formed?

A. Yes.

Q. What was your business after 1899?

A. I was general manager—

Q. General manager of the American Steel Hoop Company?

A. Of the American Steel Hoop Company, yes.

Q. For how long?

A. During its two years.

Q. And after April, 1901, what was your occupation?

A. I resigned just before then.

Q. But that is not an occupation.

A. Well, I was not in anything at the time.

Q. Were you in the steel business after that?

A. No.

Q. At the time the Steel Corporation was formed, was the Illinois Steel Company in competition with the Steel Hoop Company in the manufacture of cotton ties?

MR. COLTON: I object on the ground that the witness has already stated that he did not know whether the Illinois Steel Company continued to manufacture cotton ties or not after 1899.

By MR. REED:

Q. Now I am asking whether it was in competition in cotton ties?

A. I do not think they made them after that.

Q. After what year?

A. After the season of 1899, the crop of 1899.

Q. You were general manager of the American Steel Hoop Company at that time?

A. Yes.

Q. And you probably would have known it if the competition had been very severe, would you not?

A. Yes, I would have known it. I know what quantity we made up in 1899, and we did not sell anything like what we made up that year.

Q. You were the president of the William Clark Sons Company?

A. Yes, sir.

Q. That company went into the American Steel Hoop Company?

A. Yes.

Q. It was one of the seven band makers that did?

A. One of the several; I do not recall just how many.

Q. Did you have any open-hearth furnaces?

A. Yes.

Q. How many?

A. Two.

Q. Two of what capacity?

A. Twelve tons.

Q. A twelve-ton open-hearth furnace is a rather tiny furnace, is it not?

A. Yes.

Q. Were those two furnaces able to supply your billets required for the William Clark Sons Company?

A. No, not one-fifth of them.

Q. Did you have to go into the market to buy the other four-fifths of your billets?

A. Yes, sir.

Q. Were any of the other constituent companies of the American Steel Hoop Company even partially supplied with billet producing capacity?

MR. COLTON: I object on the ground that the witness has not been shown to be familiar with the plants of the other constituent companies of the American Steel Hoop Company.

MR. REED: I will withdraw the question.

By MR. REED:

Q. You were general manager of the Steel Hoop Company for two years?

A. Yes.

Q. Were you familiar with its plants?

A. Very familiar.

Q. Familiar enough to know whether they had steel works?

A. Positively. I visited them every day—some one of them.

Q. Did any other of the constituent companies of the American Steel Hoop Company except William Clark & Sons Company have either a Bessemer or an open-hearth steel works?

A. No.

Q. Had there been any change in the metal used for making hoops and bands in the ten years preceding the formation of the Steel Hoop Company?

A. Yes. We made them of iron ten years before, largely. We made some steel, I think, possibly ten years before that. Yes, we did; but it was principally an iron product at that time.

Q. In the early 90's, however, most hoops and bands were made of puddled iron, were they not?

A. Yes.

Q. Is the outlay required to build a puddling furnace very great in comparison with the outlay required for an open-hearth or Bessemer Steel works?

A. No, it is insignificant.

Q. Then, with the change in the industry, as bands began to be made of steel instead of iron, the puddling furnaces, of course, were not fitted for supplying the raw material for these hoop manufacturers and band manufacturers?

A. No. We dismantled ours.

Q. And it was general among the band makers that their puddling furnaces were dismantled, was it not?

A. Among those making strictly hoops and bands, with the exception of Lindsay-McCutcheon. They kept their puddling mill in force. Those making bars, however, kept their puddling plants, as they made the bars, too.

Q. By 1899 was it possible to make puddled iron as cheaply as a modern furnace could make open-hearth or Bessemer steel?

A. No. The iron would not take then, anyway; steel was much preferred.

Q. It made a better band, did it?

A. Yes, very much better.

RE-DIRECT EXAMINATION,

By MR. COLTON:

Q. When did the general use of steel instead of iron come into general vogue?

A. That is, in our line?

Q In your line; yes.

A. Oh, I would say in the early 90's.

Q. Before 1896?

A. Yes, I would say it was. Yes, decidedly before that.

Q. What percentage of the country's consumption of hoops and bands could have been produced by the various companies going into the American Steel Hoop Company?

MR. REED: That is objected to until the question shall specify the consumption of which year.

MR. COLTON: The years immediately preceding the formation of the American Steel Hoop Company.

THE WITNESS: From 1893 down to the beginning of 1899,

those hoop mills could probably supply double what the country needed.

By Mr. Colton:

Q. How about the Illinois Steel Company; what proportion of the country's wants could it have supplied in those products?

A. They could have probably supplied all that themselves

Q. The Carnegie Company did not manufacture cotton ties?

A. No, they did not.

Q. What proportion of the country's wants could the Carnegie Company have supplied during those years—in hoops and bands?

A. Not so large. They had only a few small mills that would have been capable of rolling hoops and bands.

Mr. Colton: That is all.

RE-CROSS EXAMINATION.

By Mr. Reed:

Q. What proportion of the consumption of hoops and bands in 1899 could Jones & Laughlin have supplied?

A. In 1899 the market was very active.

Q. Take the same period that Mr. Colton was inquiring about, and give us a similar answer for Jones & Laughlin.

A. I think they could have supplied pretty nearly all.

Q. They could have supplied pretty nearly the whole consumption of the country? How about Cambria?

A. They could only make a small part of it, I think, with the mills they had. They had a few small mills.

Q. How about the Bristol plant and the Atlanta plant and the H. P. Nail Company? Take the three together, what proportion of the country's consumption could they have supplied?

A. Probably one-half of it.

Q. Would you say that Cambria could have supplied one-half of it?

A. No, I hardly think they could.

Q. Then when the American Steel Hoop Company was formed and began business, it did so with the knowledge that

the productive capacity of ties and bands of the country was 450 per cent of the consumption?

A. It was very large, many times what was required, at periods—at periods, I mean.

Q. And so that company, which alone could supply twice the country's consumption, started business—

A. (Interposing) That is, twice the country's consumption in dull times, I would say. I was talking about 1898.

Q. Yes. (Continuing) Started business with the absolute certainty of competition from these outside producers, who themselves could supply two and one-half times the country's consumption at such times?

A. Yes; in dull times.

Q. So it was doomed to a career of competition from its very birth, was it not?

A. Yes, and had it.

MR. REED: That is all.

REDIRECT EXAMINATION.

By MR. COLTON:

Q. Have you ever been to that Atlanta plant?

A. Yes, sir.

Q. What was the size of that Atlanta plant?

A. It was a one-mill plant.

Q. How does that compare with the plants coming into the American Steel Hoop Company?

A. We had one with two mills.

Q. In the steel hoop business can you judge the size practically by the number of mills that you have?

A. Oh, no.

Q. It depends on the size of the mills?

A. And the make-up.

Q. How would you compare the plants of William Clark & Sons Company with the Atlanta plant of which you were speaking, as to capacity?

A. We had seven mills against their one; yet we could not make seven times the material. We made very light stuff,

which they did not make. They could have made, probably, a third of what we could.

Q. What were the largest mills in the country manufacturing hoops and bands during the period prior to 1899 or prior to the formation of the American Steel Hoop Company?

A. The Union Iron & Steel Company and J. Painter & Sons were the biggest making hoops and bands; and Jones & Laughlin.

Q. Go on through the list as far as you can.

A. William Clark & Sons; Lindsay & McCutcheon.

Q. Did that include the largest manufacturers of hoops and bands?

A. And the Illinois Steel.

Q. Of the actual manufacturers of cotton ties during that period name the largest.

A. During which period is this?

Q. From 1890 up to the formation of the American Steel Hoop Company.

A. You cannot take a period of years like that, because one year one concern will make a very large proportion, as the Illinois Steel Company did one year; but they did not make that proportion every year.

Q. Suppose you take the year immediately preceding the formation of the American Steel Hoop Company. I am speaking of those actually manufacturing.

A. The Illinois Steel Company sold those ties before the American Steel Hoop Company was formed; but they did not make them until the year that the American Steel Hoop Company was operated. They were selling for next year's crop; so that while they were sold in 1898 they were not made until 1899. They sold more than half of the output that year; and we made up less than one-half and did not sell more than one-quarter—our company, the American Steel Hoop Company,—of cotton ties. So it varies from year to year.

Q. Name the largest companies actually manufacturing hoops and bands in the years 1897 and 1898, as nearly as you can recollect.

A. J. Painter & Sons and the Union Iron & Steel Company were the largest that year. Hoops and bands were down so

low that the mills that were making bars preferred bars. The Illinois Steel Company made ties,—I am not sure that they made ties that year.

Q. State what proportion of the country's consumption could have been produced by the H. P. Nail Company.

A. I really do not know what their capacity was in that line. They were quoting, but I never saw their mill, and I do not know what they did have. They made prices, however, and sold.

By MR. REED:

Q. Do I understand you to say that in 1899, the year that this combination was created, it sold only about one-fourth of the country's consumption of steel bands?

A. No; cotton ties.

Q. Cotton ties?

A. Yes.

Q. Was this great combination able to fix the price for cotton ties for the country?

A. We made up 750,000 bundles, and we carried about 250,000 of them over.

Q. You could not sell them at any price?

A. No.

MR. REED: That is all.

HENRY B. LUPTON,

a witness produced by and on behalf of the United States, having been first duly sworn, testified as follows:

DIRECT EXAMINATION,

By MR. COLTON:

Q. Mr. Lupton, in what business were you engaged from the year 1890 up to the time that the Oliver Wire Company was sold to the American Steel & Wire Company of New Jersey?

A. From 1890 to 1897 I was sales agent and broker in Cin-

cinnati, representing the Oliver Wire Company. In 1897 I was brought here and made secretary of the Oliver Wire Company, and I was with them until they sold out, in February, 1899.

Q. Were you familiar with the wire and nail business during that period?

A. With the selling end of it; yes, sir.

Q. What products did the Oliver Wire Company sell during that period?

A. We sold very few wire rods; that means the steel as it is rolled from the billets. It was fence wires, smooth fence wire, barbed wire, and wire nails.

Q. Where did you sell your plain wire or smooth wire?

A. All over the country. There were certain sections of this country that used plain wire instead of barbed wire. We would put wooden slats into it; and the tonnage along in the nineties was very largely smooth wire. I think the tonnage sold was even larger than that of barbed wire.

Q. In what portion of the country did you sell your wire nails?

A. Every point in the country where the freight rates would permit us to go.

Q. Did that include the entire United States?

A. Yes; except that there were some interests that were very much better situated in regard to freight rates than we were.

Q. How do you mean that they were better situated? Do you mean that they got better freight rates than you did?

A. No. Well, they may have at times, yes; in those periods. But what I mean is that they were better situated geographically, so far as freight rates were concerned.

MR. LINDABURY: They had shorter hauls?

THE WITNESS: They had shorter hauls, yes, sir.

Now, if I may explain, when the Joliet and Illinois mills got well started, we sold very little west of the Mississippi River; and we exported a good deal.

By Mr. Colton:

Q. Where did you sell your barbed wire?

A. You might say that was the same as the wire nails. There were very well equipped factories at Joliet and St. Louis, that had cheaper freight rates to points west of the Mississippi River; but all through this section we sold, and we exported a good deal. In one year the Oliver Wire Company exported about 6,000 tons into Canada alone.

Q. What do you mean by "this portion of the country"?

A. From the Mississippi River to the Atlantic Coast.

Q. Name as many of the wire companies as you can that were manufacturing barbed wire from 1890 to 1899.

A. The Oliver Wire Company, I would say, first. Then here in the city, there was the Consolidated Steel & Wire Company. That was owned by John Gates. They had a mill at Braddock. Then, the Cleveland Rolling Mill Company at Cleveland. The Cincinnati Barbed Wire Fence Company, at Cincinnati, was quite a distributer. Then there was the St. Louis interest—I forget the exact name. Mr. Clifford was the head of it—afterwards president of the American Steel & Wire. Also the Elwood interests. Then there was an interest in eastern Pennsylvania; I forget the name of it, but it was a very important factor, as far as the eastern trade was concerned. Then there was one at Bethlehem.

Mr. Severance: Who was that at Bethlehem?

The Witness: I have forgotten. John Gates bought it. John Gates controlled that even before the American Steel & Wire Company did.

By Mr. Colton:

Q. Were the barbed wire companies in existence at that time in general competition with one another?

A. Yes; very generally. You might say there was general competition.

Q. Did you ever hear of the Iowa Barbed Wire Company?

A. Yes; that was a name I omitted.

Q. Was there general interstate competition in barbed wire at that time?

A. I hardly understand what you mean by that.

Q. I mean it sold throughout the United States?

A. Oh, all over the country, yes. There were times when the Ohio River was in good condition when we shipped by river, which opened up to us in Pittsburgh a lower freight rate to New Orleans and that section than those on the railroads would have. We sent it down by barges. We had to look primarily to a net price here. That is what we were looking for.

Q. Did you ever hear of the Baker Wire Company?

A. I think that was the one that was in eastern Pennsylvania. I am not right certain.

Q. The Lambert & Bishop Wire Fence Company?

A. Yes; that is the one at Joliet.

Q. The St. Louis Wire Mill Company?

A. That was the one with which Mr. Clifford was connected, yes; I had forgotten the name of it.

Q. How about the American Wire Nail Company?

A. The American Wire Nail Company? I do not think they made barbed wire.

Q. How about Roebling's Sons at Trenton, New Jersey?

A. I do not think they ever made barbed wire.

Q. How about Washburn & Moen?

A. Washburn & Moen, of course, we might say, were one of the first. The Glidden patents were owned by them, and they made a high grade light wire; for instance, three pounds per mile. That was less than we made it in the west here. They made a very good wire, and they were a concern that stood among the best in the country; but they usually got a premium for their product.

Q. You continued to make barbed wire despite the patents, did you not?

A. I do not know a great deal about that. It is an interesting story. There are some people who could tell you the whole of that interesting story a good deal better than I could. In those days I was merely a salesman. I was told to sell barbed wire at $1.65 or $1.90, and that is about as far as I knew much about it. The history of barbed wire has been an interesting story.

Q. I am not interested in the history of barbed wire. I am interested in the question as to whether these companies were selling barbed wire in competition.

MR. SEVERANCE: He has already said they were. If that is what you want, he has already answered it.

By MR. COLTON:

Q. Name as many of the manufacturers of barbed wire not acquired by the American Steel & Wire Company of New Jersey as you can.

A. I do not think I could name any. There were some small interests, but I really do not remember where they were. They were not considered a factor afterwards, and I doubt if there were any that might be considered seriously a factor for several years.

Q. You were with the American Steel & Wire Company for a short time after its formation?

A. I was there one year. At the time of the formation the management was anxious to have as many of the individuals from the companies come as possible.

Q. In what capacity were you there?

A. I did not have a very definite position. I suppose as much as anything I was a general handshaker about the office. People would come in to make a little fuss at times, and I was supposed to pacify them. Of course I was a salesman, but not with very definite duties.

Q. Who were the people that made the fuss?

A. During the winding up there, people had contracts, and they were not very well defined, and they would feel that they had more due than we thought they had, and they had to be pacified. It was the general good fellowship of business; that is what I was supposed to cultivate, more than anything else.

Q. What sort of contracts did these people have under which they felt that more was due them than you thought was due them?

A. As in the case of the Oliver Wire Company, we would contract with different merchants over the country, our reg-

ular customers, and we would say, "We will give you 5,000 kegs of nails up to March 1st." I will name one instance, and explain. We would say, "We will give you 5,000 kegs to March 1st; January 1st to March 1st." They might have ordered a car load three or four days before; and, of course, under the general circumstances of the business, that would be charged against that contract. When the contract expired, of course the American Steel & Wire Company would charge that shipment in dispute against that contract. Then they would say: "No, it is not on that contract," because nails had gone up a dollar a keg.

Q. Nails had gone up at that time?

A. Yes, sir; they went up fully a dollar a keg.

Q. Name as many manufacturers of nails as you can that were not taken over by the American Steel & Wire Company at its formation?

A. The interests at Ashland, Kentucky, and Ironton, Ohio, I do not think were much in the wire and nail business at that time. Their business was cut nails, the old-fashioned cut nails, and they had wire nail machinery, but they made them in a limited way. And when nails were sold as low as $1.00 a keg in Pittsburgh, it would not be very profitable for them. Afterwards it became more profitable.

There was a concern at Crawfordsville, Indiana. I do not know their output. There was one in Philadelphia that made a good many. I do not know where it got its wire. It may have bought rods and drawn the wire. But nails went up to about $3 a keg——

Q. They went up to $3 a keg from what?

A. From $1.25.

Q. After the formation of the American Steel & Wire Company?

A. Yes; but the whole market went up in every respect. Steel billets and bars and everything went up; pipe and tubing, bands and all went up proportionately, about the same time. The price was too high; I thought so at the time; but there was——

Q. What do you mean by the price being too high?

A. It went from $1.25 to $3.25. There were not many sold at $3.25, because the merchants had filled up at a lower price.

Q. I do not quite understand.

A. I said they became very high. Nails went from the lowest point of $1.25 to $3.25, officially; but I do not think any were sold at that. It was just the official price; and then it dropped $1 a keg in one day. That was in 1900.

Q. In 1900 it dropped a dollar a keg?

A. It dropped a dollar a keg, yes; from $3.25 to $2.25.

MR. SEVERANCE: In one day?

THE WITNESS: In one day.

By MR. COLTON:

Q. Who dropped it a dollar a keg?

A. The American Steel & Wire Company.

Q. Did it control the market at that time?

A. They made the official price of that. I would say, in a way, that they controlled the market. I do not know whether you understood me or not. I do not say that nails dropped to a dollar a keg; I say they dropped from $3.25 to $2.25; that is, they dropped a dollar a keg.

Q. I understand.

Did other iron and steel products drop at the same time in 1900?

A. That upset the market terribly. People did not want to buy anything. Every line of steel production for two months stood still. We didn't know what was going to happen. There was a great staple commodity with the merchants' interests going down from $3.25 to $2.25 in one day, and they looked for it in everything else; but there were other lines that went down more gradually.

Q. Had that drop by the American Steel & Wire Company in nails been preceded by any such drop in raw material?

A. No; it was preceded by nothing. There was nothing but a shortage of business. People were feeling that the market had gone too high, and were only buying from hand to mouth. People who would usually carry two or three thou-

sand kegs of nails in stock had their stock down to 50 and 100; and they were waiting for what they considered would be more normal conditions; and the American Steel & Wire Company made a flat reduction in one day of a dollar a keg.

Q. That reduction in wire nails was followed by a reduction in raw materials?

A. Slowly, yes. I really am not sufficiently familiar with the price of billets and bars and pipe and tubing, and so forth, to answer. I was only in the wire business.

Q. You are not as familiar with the drop in prices of raw material? Are you as familiar with the rise in prices of raw material?

A. Outside of my own business, the wire business, at that time, no. I would have been more familiar with it if I had been with the present company, the Oliver Iron & Steel Company; but at that time I was in the selling of wire products and I was not taken into consultation very often. I have heard a good deal from hearsay. What I know now has been obtained from some of the older wire men, in the last few years, like Mr. Clifford, who will probably be before you a little later on. He was in the Harrison Wire Company at St. Louis, and he has always been one of the most respected and honored in the wire interests. He was president of the American Steel & Wire Company after Mr. Gates retired.

Q. But as to the wire business you are speaking of your own knowledge?

A. Yes, sir: I am speaking of the wire business of my own knowledge. I was in the selling end of it always. What I know of it I know from the selling end.

CROSS EXAMINATION.

By Mr. Severance:

Q. Mr. Lupton, you said that after the price went up to this abnormal figure, $3.25 a keg, it was dropped one dollar a keg in one day?

A. Yes.

Q. That was done by your company, the American Steel & Wire Company?

A. The American Steel & Wire Company, yes.

Q. Do you know whether the other manufacturers had been selling at as high a figure?

A. Pretty nearly. They came up just as near to the American Steel & Wire Company figure as they could. I mean, if there was only five or ten cents difference, that might get the business, for the comparatively few that they made. The outside interests of the country made five per cent. of the needs of the country.

Q. When the American Steel & Wire Company dropped the price one dollar a keg did the outside interests drop their prices, too?

A. They had to. They thought it was very unkind of the American Steel & Wire Company to drop the price so suddenly, but they had not been consulted.

Q. What are wire nails worth now?

A. I do not know, sir. I should think about $1.60. That is a regular market commodity that is quoted every day in the papers, almost, and it is a very easy matter to ascertain exactly what it is.

Q. The prices have shifted more or less?

A. Yes, sir.

Q. There are a good many people making them now, are there not?

A. A great many. There is a production, I should think, in excess of consumption.

Q. The American Steel & Wire Company have nothing like a monopoly of that business, have they?

A. Not at all.

MR. COLTON: I object to that question on the ground that it is a mixed question of law and fact, and on the further ground that the witness has not been shown to have been connected with the wire business since 1902.

By Mr. Severance:

Q. Answer the question. That is only an objection for the record.

A. I should say, without knowing—this is just hearsay, and from my present personal acquaintanceship with the wire makers——

Mr. Colton: I object on the further ground that it is hearsay.

By Mr. Severance:

Q. Proceed.

A. I should say that there is a possible production of—well, it is such hearsay that I do not know what to say, personally, but I should feel that this country is not producing 60 per cent. of what could be produced.

Q. I do not know just what that means. You mean that the mills are not operating to 60 per cent. of their capacity?

A. No; they are not consuming 60 per cent. of what would be the nail capacity of the country.

Q. I see. What is your business now?

A. I am with the Oliver Iron & Steel Company.

Q. What do they do?

A. They are steel manufacturers; manufacturers of bolts, principally. That is the principal part of our business—track bolts and bolts of every description.

Q. You have been familiar with the steel business in a general way all these years?

A. Yes, sir.

Q. You have been familiar with the various branches; you have lived right in that atmosphere?

A. Yes.

Q. That is true?

A. Yes, sir.

Q. While you have not been as directly connected with wire and nails as you used to be, you have been in touch with the people who are in that business, and you are familiar with the market conditions in general in the steel trade?

A. Yes.

Q. And you say that, in your judgment, the country can produce now a good deal more nails than the country can consume?

A. Yes.

Q. As a matter of fact, there is quite a large exporting business in that?

A. Very large, I understand.

Q. To what countries?

A. I guess to every country in the world.

Q. All over the world?

A. I think so.

Q. And the American Steel & Wire Company is one of the companies that exports, is it not?

A. Yes. I do not know the export conditions of the other people at all. I hear them spoken of, but I do not know anything about them, except as I read it and learn it from general conversation.

Q. From your experience as a salesman in the steel trade, you would say, would you not, that a large, well managed company is much better equipped for going into the foreign trade than small concerns are?

A. Absolutely; infinitely better equipped.

Q. So the American Steel & Wire Company is better equipped to go out into the markets of the world and compete with foreigners and get the foreign business than any other concern?

A. I would not say that. There are some interests here in Pittsburgh that are well equipped. There is the Pittsburgh Wire Company——

Q. That is one of the large companies?

A. One of the big companies. And there is Jones & Laughlin; they have gone into the nail business.

Q. That is a large concern?

A. Yes, sir.

Q. And they are exporters?

A. I suppose so. If I may add a word in regard to the matter, I would say that it is the magnificent organization

of the export department of the Steel Corporation which accounts for their success to a large extent. In every country in the world they meet the conditions; for instance, they have to have different gauges in different countries, and different size kegs. In Japan there is a unit there which is different from elsewhere. Ours is a keg of 100 pounds, but theirs is a keg of 133 pounds. Now, to know how to reach all the different countries and supply the needs according to the circumstances, and give them prices and so on in their own money, or it may be in English money—it is their wonderful organization that enables them to reach out as they do.

Q. So the organization of the United States Steel Products Company, which handles the foreign business, is a very valuable thing for the steel trade of this country, is it not?

A. Absolutely so. It is a wonderful organization.

Q. I understand you have no connection with the Steel Corporation.

A. That is correct. We buy their steel billets and manufacture them into these different items.

Q. You spoke of this sudden drop of a dollar a keg in nails.

A. Yes; in one day.

Q. What would you say is the effect upon the public interest generally, consumers and jobbers and retailers, of stability and uniformity in prices as opposed to sudden rises and falls?

A. Do you mean what is my opinion of conditions to-day as against——

Q. No, I ask this: Is the effect beneficial to have uniformity and stability in prices, or is it better to have prices flopping around?

A. Absolute stability is the best. There is nothing more hurtful to the business interests of the country than a decline like the decline of $20 a ton in price on the 20th of April, 1900. That affected business conditions all over the country. When a reduction to $2.25 was made, they would not buy then; they waited for lower prices.

Q. It is a fact, is it not, that when prices go up very rap-

idly and you have what is called a runaway market—is that what you call it?

A. Yes.

Q. Is a runaway market a distinct disadvantage to all the interests of the country?

A. Absolutely.

Q. When the market goes up with great rapidity and the manufacturers take bonuses for quick delivery on account of the activity of the trade, it has a tendency very shortly to check all business, has it not?

A. Yes. If I may explain, sir, I would say this: The custom in the trade in this country is different from the custom in England. In this country we hate to say to anybody that we cannot furnish anything that is wanted. I am speaking on the broad manufacturing proposition. For instance, in our line of business, we may have more on our books than we can make for three or four months, and we ought not to quote any prices; but instead of that, we will probably quote a price ten or twenty per cent. higher than our regular price, if anybody asks us what we will furnish anything for, and that sort of makes the price, which is wrong; whereas, on the other hand, some English manufacturers have not changed their prices for thirty years. I mean to call attention to the stability of prices that will be found in England. If they have not got the goods and cannot furnish them, they will say so. Here, as I say, we simply quote a higher price, and the first thing we know we are getting the business.

Q. Is there any subsidiary of the United States Steel Corporation that is in competition with the Oliver Steel Company?

A. None at all, sir.

Q. They do not manufacture what you do?

A. No. We, of course, are an enormous consumer of their base products. As a general idea, I would say that they do not care to get down—this is what I understand, this is my general information—they do not care to get down into these minor products, but they would rather sell the steel

billets. I understand that they would rather do that than to make wire and nails——

Q. Whatever the reason is, that is the fact?

A. That is it.

Q. Do you buy also from other steel manufacturers?

A. No, we do not. We buy entirely from the Carnegie Steel Company. We came in under a contract when we sold out the wire company.

Q. And you have found them fair and reasonable in the trade?

A. Absolutely so.

Q. And honorable?

A. Most honorable.

Q. You said, in answer to counsel, that in the sale of wire and nails the freight rates had a good deal to do with controlling the sales?

A. Yes.

Q. So that companies that are doing business in Illinois and St. Louis had an advantage over Pittsburgh in the trans-Mississippi territory?

A. Absolutely; yes, sir.

Q. That is because of the expense of shipping the finished product from here out there?

A. Yes, sir.

Q. Is wire fencing bulky in proportion to its weight?

A. We never made fencing. We only made barbed wire.

Q. The wire runs heavy, does it not? Does it weigh heavily?

A. It came in reels of about 100 pounds.

Q. How many would you get in an ordinary car?

A. All the way from thirty-six minimum to one hundred thousand maximum.

Q. According to what?

A. According to the size of the car.

Q. But it will load heavily?

A. Yes. I suppose our average on wire nails was 500 kegs to a car.

Q. You said you shipped sometimes by the river to New Orleans?

A. To New Orleans and Memphis and Nashville, but the season was a short one usually, from Pittsburgh down the river.

MR. LINDABURY: Why?

THE WITNESS: Because sometimes we have not any water, you know.

MR. LINDABURY: You mean the river is not deep enough?

THE WITNESS: That is it.

By MR. SEVERANCE:

Q. The river is too shallow?

A. Yes.

Q. You said that you thought the American Steel & Wire Company took in almost all of the wire manufacturers. We have had some other testimony in the case that shows——

MR. DICKINSON: I object to that.

MR. SEVERANCE: Let me finish my question.

MR. DICKINSON: But I object to counsel stating to the witness on cross examination as to what other testimony there has been in the case, or that we have had other testimony in the case.

MR. SEVERANCE: Is your objection finished?

MR. DICKINSON: Yes. I will add, further, that I object to it on the ground that the statement of counsel as to other testimony is calculated to affect the witness and his answer.

By MR. SEVERANCE:

Q. Are you certain, Mr. Lupton, that there were no outside companies doing business that did not go into the Steel & Wire Company?

A. I know that if there were, they were small concerns. There were thirteen companies, as I remember it—of course, this was twelve years ago—but I think I am safe in saying that all of the larger companies went in. Those that did not go in were probably rather small concerns, with only two or three machines, or something of that kind, that you hardly

ever hear of. I do not think any large companies, or at least any companies with a tonnage of 40,000 or 50,000 tons a year, failed to come in. I am positive, in fact.

Q. If there were any small companies that stayed outside, they were in a position to compete to the limit of their output with the American Steel & Wire Company?

A. Absolutely.

Q. You were asked by counsel about Roebling. Did you say they were not in the wire business?

A. No, sir. I said they were not in the barbed wire business.

Q. They made wire, but not barbed wire?

A. Some of the finest wire known is made by Roebling, for telegraph and telephone purposes.

Q. Is it not used for any other purposes?

A. It might have been, but I do not think any was used for fencing purposes. It was too high grade and other makers were making it of steel, and they had to make most of their iron out of Norway iron, but I am positive they were never in the barbed wire business.

Q. Do you know the Kelly concern, doing business in Kentucky and Ohio—the Kelly interests?

A. I do not know them in connection with the wire business at all.

Q. What do you know them in connection with?

A. Axe manufacturers, and Kelly's father was probably the first maker of Bessemer steel in this country, at Louisville. I never heard of them in connection with the wire business.

RE-DIRECT EXAMINATION.

By Mr. Colton:

Q. Only a single question. What was the nature of that contract with the Carnegie Company?

A. When and what contract?

Q. The contract with the Carnegie Company in reference to the furnishing of billets to the Oliver Iron Company.

A. The Oliver Iron & Steel Company. Is that a question that I ought to answer? That was a business arrangement with the Oliver Iron & Steel Company, between the Carnegie Steel Company and the Oliver Iron & Steel Company.

Q. When was it made?

A. I think there was one made before the death of Mr. Oliver, I know, say in 1901 or 1902, and that was a ten year contract. This is the other one. There is one word I can say, although I would not like to go into details.

Q. We will not ask for the details, then, at this time.

A. That is, that we are very large makers of coke, and they took all of our coke.

Q. They took all your coke?

A. Yes.

Q. And you take all their billets?

A. No.

Q. All the billets that you need in your business, I should say.

A. Yes. We get them from the Carnegie Steel Company.

Q. You answered the question as to when that contract was entered into, but I did not get the date.

A. I could not say. It was a ten year contract, and then probably an eight year contract. Sometimes there are little shiftings made, you know, but I think about five years.

Q. Are you at liberty to buy billets from anyone else?

A. Absolutely—absolutely. But I hardly know where we would look for them now. They are all very much sewed up.

By Mr. Severance:

Q. That is on account of the present boom in the business?

A. Yes.

Q. Everybody is sold out—everything in the steel line?

A. Yes, and I think prices are comparatively well protected. If it had been like some of the periods of twenty-five years ago, I do not know where the market would have gone; I know it would have gone probably two times higher than it is to-day.

By Mr. Colton:

Q. I understand that you object to the production of this contract on confidential grounds, and we will therefore waive an examination of that contract, but I may ask to be allowed to examine the contract to determine whether it is material to the case or not. That is something for the company to determine.

A. Yes, something for the company to determine. Senator Oliver is the one to approach on that, I guess.

(Whereupon a recess was taken to 2 o'clock p. m.)

AFTER RECESS.

The hearing was resumed, pursuant to the taking of recess.

WILLIAM P. SNYDER,

a witness produced by and on behalf of the United States, having been first duly sworn, testified as follows:

DIRECT EXAMINATION,

By Mr. Dickinson:

Q. Where do you live?

A. Pittsburgh.

Q. How long have you lived in Pittsburgh?

A. Thirty odd years.

Q. About what is your age?

A. About fifty.

Q. In what business are you now engaged?

A. Producing iron ore and producing pig iron and coke.

Q. Individually, or are you in connection with some corporation?

A. In connection with the Shenango Furnace Company.

Q. That is a corporation?

A. Yes.

Q. How long have you been connected with that company carrying on that character of business?

A. Since 1902.

Q. What position or positions have you held with that company during that time?

A. President.

Q. During all that time?

A. Yes.

Q. Prior to the formation of that company were you in any iron or ore business, and if so, in connection with what company?

A. I was always in the merchant firm of W. P. Snyder & Company, handling iron ore, billets, pig iron, and so forth.

Q. That has been your business all your life?

A. All my life.

Q. Did you have any connection with the Oliver & Snyder Steel Company, and if so, in what capacity?

A. I was president.

Q. Where was that company located?

A. In Pittsburgh.

Q. Were you connected with that company from 1890 to 1899?

A. No. That company was formed in 1897.

Q. 1897?

A. I think that is correct. (After consulting memorandum) Yes, 1897.

Q. Then from 1897 to 1899 you were connected with it?

A. I sold my interest out April 26, 1899.

Q. Was it a stock company?

A. It was a stock company—it was a corporation, I should say.

Q. I do not know whether you stated whether you were an officer of that company?

A. Yes; president.

Q. What kind of works did this company have, and where were they located, and what did they manufacture?

A. They had a Bessemer steel plant located in Pittsburgh,

and a blast furnace in Pittsburgh, or, rather, in Allegheny City. Also at New Castle, Pennsylvania.

Q. What did they make?

A. Pig iron and steel billets, slabs, blooms, and so forth. Also a coking plant.

Q. Where was that located?

A. At Uniontown.

Q. Did they make slabs and billets of various sizes?

A. They did.

Q. What was the name of the coke plant?

A. The same as the other, all under the name of the Oliver-Snyder Steel Company.

Q. The company owned the plant?

A. Yes.

Q. It was not a separate corporation then?

A. No.

Q. What was the capacity annually in gross tons of that company in 1898, in billets?

A. About 600 tons a day of billets.

Q. What sizes did they run?

A. All sizes, from four inches up to twelve inches.

Q. Did you make any as large as twenty inches?

A. No.

Q. In 1898 state who were the principal competitors in interstate commerce of your company in the sale of billets and blooms and slabs.

A. All the plants in this district, including Wheeling, Bellaire, Steubenville, Youngstown, New Castle, Cleveland, and the local plants, of course, in the Pittsburgh district.

Q. I will call some of them by name and you can answer yes or no as to them. Carnegie Steel Company?

A. Yes.

Q. Shenango Valley Steel Company?

A. Yes.

Q. Ohio Steel Company?

A. Yes.

Q. Cleveland Rolling Mills Company?

A. Yes.

Q. Riverside Iron Company?

A. Yes.

Q. Schoenberger Steel Company?

A. Yes.

Q. Bethlehem Steel Company?

A. No.

Q. That was created afterwards, was it?

A. Well, they were in existence at the time, but I do not recall any competition specially with them.

Q. Cambria Steel Company?

A. Yes.

Q. Lackawanna Steel Company?

A. Yes.

Q. Wheeling Steel & Iron Company?

A. Yes.

Q. King, Gilbert & Warner Company?

A. Yes.

Q. Buhl Steel Company?

A. Yes.

Q. Jones & Laughlin?

A. Yes.

Q. The Mingo Works of the Aetna Standard Steel Company——

A. Known as Laughlin & Junction Steel Company.

Q. The Bellaire Steel Company?

A. Yes.

Q. State whether or not prior to the sale of your stock in that company your company was a member of any of the various billet, bloom and slab associations, and if so, what the names of those associations were.

A. The billet pool was all I remember. We were connected with all of them.

Q. What was its name; did it have any name?

A. No, just the billet pool. It was more of a nickname.

Q. Was it spoken of and referred to as the billet pool?

A. Yes.

Q. Was that pool continuous or not?

A. Off and on.

Q. Was it remittent and intermittent?

A. That was it.

Q. What products were embraced within the purposes of that pool? Did it cover blooms and slabs?

A. It did.

Q. Billets, blooms and slabs?

A. Yes, sir.

Q. Anything else?

A. That is all.

Q. Who were included within the membership or among those who attended and cooperated in that association?

A. I would say all the different steel plants that were in existence at that time.

Q. I will ask you whether or not the Carnegie Steel Company was one of them.

A. It was.

Q. Whether or not the Illinois Steel Company was one of them?

A. It was.

Q. And those companies that I have named specially a while ago.

A. Yes, sir.

Q. State whether or not that association had a percentage arrangement by which there was a certain apportionment among the members of the pool.

A. At times they did have.

Q. Did they make reports of their sales to someone?

A. At times they did.

Q. Suppose the sales were in excess of the percentage that was allotted; what was done, if anything?

A. They either drew out from the pool or paid in.

Q. On what basis did they pay in?

A. I do not remember the basis, except if the percentage was exceeded you had to pay into the pool.

Q. What became of the money paid into the pool?

A. It was handled by the treasurer and distributed among those who were entitled to the benefits, or charged up against those who were not.

Q. That is, those who sold in excess paid, and it was distributed among those who had fallen below their pro rata?

A. It was; that is correct. But that was not the case at all times.

Q. I understood you to say that they were disrupted at times?

A. Yes.

Q. And came together again and continued from time to time. Who represented the Illinois Steel Company from time to time at those meetings?

A. Generally Mr. Gates.

Q. Any other person at any time that you recall?

A. I do not recall anyone else.

Q. After the formation of the Federal Steel Company, who represented it?

A. Mr. Gates.

Q. Who represented the Carnegie Company?

A. Different ones. Mr. Leishman at times, and different presidents of the companies as they followed on.

Q. State if you recall who represented the Shenango Valley at those meetings.

A. Mr. W. E. Reis.

Q. And the Ohio Steel Company?

A. Henry Wick.

Q. The Cleveland Rolling Mills Company?

A. Mr. Chisholm.

Q. The Riverside Iron Company?

A. Mr. Hearn.

Q. The Schoenberger Steel Company?

A. I do not recall.

Q. King, Gilbert & Warner Company?

A. Mr. Gilbert.

Q. The Buhl Steel Company?

A. Mr. Buhl.

Q. The Mingo Works of the Aetna Standard Steel Company?

A. Mr. Laughlin.

Q. And the Bellaire Steel Company?

A. Mr. McCourtney.

Q. What Mr. Laughlin is that; is that the gentleman connected with the firm of Jones & Laughlin?

A. No, sir; no relation to him.

Q. State whether or not the company of which you are now president is an owner of mines, either by fee or lease, of ores; and, if so, where are those mines located?

MR. REED: Do you mean the Shenango Furnace Company?

MR. DICKINSON: Is that the name of the company?

By MR. DICKINSON:

Q. What is the name of your company?

A. The Shenango Furnace Company?

Q. Is the Shenango Furnace Company the owner of any ore mines?

A. It is.

Q. In what state or states?

A. Minnesota and Michigan.

Q. In Minnesota, in what region are those mines located?

A. St. Louis County.

Q. In what ore region as it is generally spoken of in the trade?

A. Mesabi.

Q. Do you own any in the Vermilion Range?

A. No.

Q. All your holdings, then, in Minnesota, are in the Mesabi Range?

A. The Mesabi Range.

Q. And in the Michigan Range you say you have holdings?

A. The Antoine Ore Company.

Q. Are these companies that hold those mines separate corporations, or does your company own the property, or does it control it through owning and controlling these corporations?

A. We own it through control and direct ownership.

Q. Both ways?

A. Yes, sir.

Q. Where is your largest mine located?

A. In the Mesabi Range.

Q. What character of ore have you in that mine? I mean as to quality and metallic content?

A. It is a high grade ore, both non-Bessemer and Bessemer.

Q. How does it compare with other ores in that region?

A. Very favorably. As good as any, I think.

Q. State whether or not your company, either directly or through some intermediate company, owns any ore mine which is located solely on either one of the railroads in that section controlled by the United States Steel Corporation.

A. Two of our mines are on the Duluth, Missabe & Northern road.

Q. Are they on any other road?

A. We have connections with other roads. We ship our ore, however, over the D., M. & N. from two properties.

Q. Have you any connections to those two properties with any other road? When I say properties, I mean your operating mines; I do not mean if it touches it at some point, but I mean convenient for shipping over.

A. We can ship conveniently over other roads.

Q. From all your properties?

A. From all our properties.

Q. Other roads besides the Duluth, Missabe & Northern?

A. That is right.

Q. Have these other roads track extensions into your mines?

A. In some cases.

Q. Have you any mines where the only track extension and the only facilities for shipping are afforded by the Duluth, Missabe & Northern?

A. We can ship by both roads from all properties.

Q. You mean to-day you can?

A. We can.

Q. What roads do you mean?

A. The D., M. & N. and the Great Northern.

Q. Do you mean to say by that, Mr. Snyder, that your mines as developed and now operated have present facilities

for shipping both over the Great Northern and the Duluth, Missabe & Northern.

A. Yes, we have. We do not always use both roads, but we can ship by both roads.

Q. From any of your mines that are developed and are operating?

A. We can.

Q. Have you any contract with the Duluth, Missabe & Northern for shipping over their road?

A. We have.

Q. When was that contract made?

A. Back in 1902 or 1903, I would say.

Q. Did your company make the contract, or did you acquire the contract along with the property?

A. We made the contract.

Q. For what period of time did that continue?

A. During the term of our lease.

Q. How long was the term of your lease?

A. Some of them run thirty-five years.

Q. How many of your mining properties are covered by this contract or any other contracts of shipment over the roads of the corporation?

A. We have two properties that ship over the corporation road. When the facilities and so forth are as favorable as any other road, they get the preference.

Q. As a matter of fact, are you shipping from the mines covered by this contract; are you shipping over any road other than the Duluth, Missabe & Northern?

A. Yes; from both the Webb and Whiteside.

Q. Have you any mine from which you ship exclusively over the D., M. & N. under this contract that you have referred to?

A. Yes; the Shenango mine.

Q. Is that your largest mine?

A. That is the largest.

Q. What is your daily output of that mine now?

A. 15,000 to 20,000 tons a day.

Q. How does that compare with the output of other mines in that section?

A. It is as large as any of them.

Q. State whether or not that contract provides for shipping from the Shenango mine exclusively over the Corporation's road.

A. It does.

Q. State whether or not, prior to the organization of the United States Steel Corporation, and for a number of years previous thereto, you or any corporation or firm in which you were interested was engaged in taking leases upon ore properties or purchasing ore properties in the Mesabi region.

A. We were.

Q. For how long a period prior to the organization of the Corporation had you been so engaged?

A. As early as 1896.

Q. From 1896 down to the time the United States Steel Corporation was formed?

A. Yes.

Q. From 1896 down to the time the United States Steel Corporation was organized, were you or not familiar with that ore section?

A. Yes.

MR. REED: Do you mean the Mesabi section?

MR. DICKINSON: Yes, sir; the Mesabi.

By MR. DICKINSON:

Q. You understand I am speaking of the Mesabi?

A. Yes, sir.

Q. Have you been through that country yourself?

A. Very often.

Q. Were you there during the period from 1896 to 1901?

A. I was.

Q. Often or not?

A. Quite often.

Q. During that period, Mr. Snyder, from 1896 down to 1901, what interest in the acquiring of ore properties did you

represent? I mean by that yourself personally or companies with which you were associated, or both?

A. Prior to 1901 I was connected only indirectly. After 1901 I was interested directly, with the Shenango Furnace Company.

Q. What do you mean by "indirectly," prior to 1901?

A. Mr. Henry W. Oliver and I had some joint interests, and through that joint interest he acquired some properties.

Q. Do you know what properties he acquired during that time?

A. I could not tell you.

Q. Did you acquire any properties during that time?

A. I did not.

Q. Did any company with which you were connected acquire properties during that time?

A. They did.

Q. What companies?

A. The Oliver & Snyder Steel Company.

Q. What position did you hold in that company?

A. President.

Q. What properties did they acquire during that time?

A. They had a one-sixth interest in the Oliver Mining Company, and the properties were acquired by the Oliver Mining Company.

Q. State whether or not the Oliver Mining Company during that period acquired a large or a small amount.

A. Very large amounts.

Q. Did they acquire it all together, or in various purchases?

A. In various purchases.

Q. Did they acquire any of it in fee?

A. They did.

Q. Did they acquire any of it on royalty?

A. They did.

Q. Do you recollect now, or can you state, what proportion was acquired during that time in fee and what on royalties?

A. I cannot.

Q. State generally whether a large acreage was acquired on fee and a large acreage acquired on royalty.

A. I would say the larger acreage was acquired on a royalty basis.

Q. Where were those properties located?

A. On the Mesabi Range in Minnesota, and the old ranges in Michigan and Wisconsin.

Q. In relation to your present mine, of which you have spoken, the Shenango Mine, where were those properties located?

A. On the Mesabi Range.

Q. How far from the location of your present mines?

A. My present mine is on the Mesabi Range.

Q. I know. But I mean these properties that were acquired by the Oliver Mining Company.

A. In that same district.

Q. Some of them in that vicinity?

A. Yes.

Q. Mr. Snyder, what was the general, prevailing rate of royalty for merchantable ores during the period from 1896 up to 1901?

A. My recollection would be from 15 cents to 25 cents.

Q. Would that range cover the various classes of ore covering the best qualities?

A. It would.

Q. State whether or not, prior to the organization of the United States Steel Corporation you or any company in which you were ever interested paid a greater royalty than 25 cents for the ore leased in the Mesabi Range.

A. We did.

Q. Which one?

A. Greater than 25 cents, you say?

Q. Yes.

A. I was president of the Clairton during that period and we paid 35 cents a ton royalty on a number of properties.

Q. When was the Clairton Steel Company organized?

A. June 5, 1902.

Q. My question was prior to 1901.

A. I beg your pardon.

Q. Now will you answer the question with that understanding?

A. I do not know of any larger royalties than 25 cents a ton.

Q. Prior to the formation of the United States Steel Corporation?

A. Yes, sir.

MR. REED: Mr. Snyder may not remember the date of the formation of the Steel Corporation.

By MR. DICKINSON:

Q. Prior to 1901; say prior to April, 1901?

A. I have no recollection of it. There may have been.

Q. State whether or not, in connection with leases upon which these royalties from 15 to 25 cents were paid, bonuses were ever paid.

A. Very generally.

Q. How would those bonuses be? At what rate, and how would they range?

A. Generally on the best bargain you could make, without any basis.

Q. What was the highest bonus prior to April, 1901, of which you knew to be paid per ton for the estimated ore under any lease upon which a royalty was paid in addition?

A. I cannot answer that. I do not remember.

Q. State whether or not it would be as much, in addition to the royalty, as five cents per ton on the estimated ore?

A. You would have to know the tonnage of the ore in the mines to figure it out on the price per ton.

Q. Do you know of any mines where a lease was taken over and the obligation to pay royalty was assumed, and in addition a bonus was paid, prior to 1901?

A. I know that it was done. I cannot recall the mine.

Q. You cannot recall any mine?

A. I cannot.

Q. What would you have regarded, at that time, as a reasonable price to pay in addition to a royalty as a bonus per ton?

A. I cannot answer that. There are so many things that enter into it. I could not give you a satisfactory reply.

Q. When did your company acquire this Shenango Mine?

A. In 1901, my recollection is.

Q. Is the Shenango Valley Company the name of your present company?

A. The Shenango Furnace Company.

Q. And that is the company that owns this Shenango Mine?

A. Yes.

Q. Have you any memorandum by which you can tell me when your company acquired that property?

A. I have not.

MR. LINDABURY: I thought he gave the date as 1901.

MR. REED: He said about 1901.

MR. DICKINSON: Yes, he stated that it was about 1901.

By MR. DICKINSON:

Q. Was it acquired before or after the formation of the United States Steel Corporation?

A. It was acquired about the same time; possibly a little after.

Q. What is your best recollection as to whether it was before or after?

A. A little after.

Q. What royalty did the lease provide for under that?

A. Twenty cents. It was a very high grade ore.

Q. How long did that lease run?

A. Thirty-five years.

Q. What was the estimated tonnage of ore in that property?

A. 24,000,000 tons.

Q. Did your company take it over entirely, or only an interest in it?

A. It took it over entirely.

Q. What bonus did you pay?

A. That was mixed up in some matters with Mr. Oliver. The bonus, however, would be roughly, about $400,000.

Q. Mr. Snyder, did you ever dispose of any ore lease to the United States Steel Corporation on a royalty?

A. I disposed of an interest I had in the Clairton Mine, which was a fee property. Half of it belonged to the Clairton Steel Company.

Q. And you owned the other half?

A. And I owned the other half.

Q. And that was disposed of outright, was it?

A. That was disposed of outright, except that I got for my interest a royalty basis.

Q. What royalty basis did you sell your interest for?

A. Ten cents a ton.

Q. Did you get any bonus in addition to that?

A. I was paid a royalty on all the tonnage that was in the mine, and only owned a half interest in it.

Q. There was no lease in connection with that?

A. There was not.

Q. That was the Clairton property?

A. That was the Clairton property owned by them and myself jointly.

Q. Where was that property located?

A. In St. Louis County, Minnesota.

Q. How far from the Shenango Mine?

A. Possibly half a mile.

Q. What was the character of ore in that mine?

A. A very good grade of ore.

Q. Would it class in comparison with others as good grade ore?

A. It would.

Q. Was it Bessemer ore?

A. No; non-Bessemer.

Q. What kind of ore is in your Shenango Mine?

A. Both Bessemer and non-Bessemer.

Q. Is the royalty the same on both?

A. Just the same.

Q. When did the Clairton Company acquire this ore property that went over to the United States Steel Corporation?

A. Sometime after June 5, 1902. I cannot give you the

exact date. I owned the property in fee and I gave them a half interest.

Q. You gave it or sold it?

A. I mean I sold it to them.

Q. On what basis did you sell it?

A. The same as I paid.

Q. When did you buy it?

A. Early in the spring of 1902.

Q. What did you pay?

A. 35 cents a ton royalty.

Q. Was there any bonus in connection with that?

A. $75,000.

Q. What was the tonnage?

A. It was estimated as about 7,000,000 tons; 6,500,000 tons.

Q. You have spoken of the Shenango Mine. What other mines do you operate?

A. The Webb mine.

Q. Where is that located?

A. On the Mesabi Range.

Q. How far from the other?

A. Possibly two miles.

Q. What character of ore is that, comparatively, in quality?

A. About the same.

Q. When did your company acquire that?

A. In 1902.

Q. On a royalty or in fee?

A. On a royalty.

Q. What royalty do you pay there?

A. Twenty cents.

Q. How long does it run?

A. Fifty years.

Q. Did you pay any bonus besides the royalty?

A. $150,000.

Q. What was the estimated tonnage?

A. 16,000,000.

Q. Are there any other mines in the Mesabi Range owned or operated by your company?

A. The Whiteside.

Q. Where is that located?

A. About five miles from the Shenango.

Q. When was that acquired by your company?

A. In 1902.

Q. On a royalty basis?

A. On a royalty basis.

Q. On what royalty?

A. Twenty-five cents.

Q. How long does the lease run?

A. Fifty years.

Q. What was the estimated tonnage of that mine?

A. 10,000,000.

Q. What was the bonus paid?

A. $100,000.

Q. What was the character of the ore, as compared with the best ores there?

A. About the same.

Q. Do you operate any other mines in the Mesabi region?

A. We have two mines not developed.

Q. When did you acquire those properties?

A. The same year.

Q. They are not developed at all?

A. No, sir.

Q. Did you acquire them on a lease or in fee?

A. On a royalty; on a lease basis.

Q. On what basis?

A. I want to correct that. They were not acquired in 1902. It was in 1904.

Q. 1904?

A. Yes.

Q. On what basis were those acquired?

A. They were acquired on a basis of fifty cents.

Q. Have you ever operated them?

A. We have not.

MR. SEVERANCE: What is your minimum, Mr. Snyder?

THE WITNESS: The minimum in just this one?

MR. REED: Just the last two, that you are not operating.

THE WITNESS: I would say fifty thousand in one and seventy-five thousand in the other.

By MR. DICKINSON:

Q. What is the estimated tonnage in each of those mines?

A. About 1,750,000 in one and 1,500,000 in the other.

Q. Did you pay any bonus?

A. $50,000.

Q. For the two?

A. For the two.

Q. What was your minimum tonnage on the Shenango?

A. One hundred thousand tons a year.

Q. And on the Webb?

A. One hundred and fifty thousand tons a year.

Q. Have you any properties in the Vermillion Range?

A. No.

Q. Have you any properties on the Menominee Range?

A. Yes. Jointly with the Republic Iron & Steel Company.

Q. That is in Michigan?

A. Yes; that is in Michigan.

Q. Just state what ore properties you are interested in in the Menominee Range and when they were variously acquired.

A. They were all acquired at one time, under the name of the Antoine Ore Company.

Q. When were they acquired?

A. In 1906, according to my recollection.

Q. You say you were interested in connection with the Republic Iron & Steel Company?

A. Yes; we owned that jointly.

Q. I wish you would define what is generally spoken of as "the old range".

A. The old range is the ore district of Michigan, part of Minnesota and Wisconsin, and is known as the hard ore.

Q. That was in use before they discovered the Bessemer ore, was it?

A. No.

Q. Why do they call it the old range ore?

A. It is known as the old range, and the Mesabi came in as the new range.

Q. So the old range was in both states?

A. In three states; Wisconsin, Michigan and Minnesota.

Q. But the Vermillion and Mesabi are altogether in Minnesota, are they?

A. Yes, sir; they are.

Q. When was the Clairton Steel Company taken over by the United States Steel Corporation?

A. May 1, 1904.

Q. Was it or not in the hands of a receiver at that time?

A. It was.

Q. When did it go into the hands of a receiver?

A. January 4, 1904.

Q. At the time that it went into the hands of a receiver what was the Clairton Steel Company making in the way of products, and where was it selling them?

A. It was making blooms, billets, slabs, open-hearth steel, and it was selling them generally over the same points I gave you before.

Q. And in competition with the other companies you have mentioned before?

A. It was.

Q. What was the size or the capacity of the Clairton Steel Company?

A. It had twelve open hearths, three blast furnaces, rolling mills; they could produce 1200 tons a day.

Q. State whether or not, at the time that it went into the hands of a receiver, or at the time it was taken over by the United States Steel Corporation,—at either period,—there was new construction under way.

A. There was.

Q. What was that new construction?

A. Rolling mill engines and mills for rolling the billets into finished shape.

Q. What was the capacity of the proposed construction?

A. It was proposed to take up about the product of the mill; I believe half of the product.

Q. What were they going to make and put on the market?

A. They were going to make bars and small billets, practically all in the semi-finished line.

Q. You gave, a while ago, the capacity. Did you include that in the capacity, or would that be in addition?

A. That is included in the capacity.

Q. That is included in the capacity that you have already given?

A. Yes.

Q. At the time the Clairton Steel Company was put into the hands of a receiver, was it making or losing money?

A. It was just beginning to go out of the construction period into the operating period. There was no chance, at that time, to tell whether it would make money or not, before they got through with the construction.

Q. What was its condition?

A. They were not making money at the time.

Q. What was its financial condition?

A. Its financial condition was not very good.

Q. Who were the men that were the principal owners in the Clairton Steel Company?

A. The Crucible Steel Company owned all of it.

Q. Who were the principal owners in the Crucible Steel Company?

A. The public generally.

Q. I know, but who were the directing and controlling men in the Crucible Steel?

A. William G. Park was president; Reuben Miller was vice-president; Herbert Dupuy was a director and officer; there was also A. W. Mellon, F. B. Smith, William H. Singer. That is all I can recall at present.

Q. Were those men strong financially?

A. They were.

Q. Most of those you have named?

A. All of them.

Q. The company had not been operated at all, you say?

A. It was just beginning to operate partially. Up to that time they were constructing their new plant.

Q. State whether or not from time to time your company in recent years has sold pig iron to the Steel Corporation.

A. We have occasionally.

Q. In what quantity?

A. in varying quantities, sometimes small, comparatively, and at other times large.

Q. What would you call small and what would you call large?

A. 5,000 tons up to 100,000 tons.

Q. Then you have been selling variously in amounts of that character?

A. I think we have only sold 100,000 tons one time. The other occasions were small.

Q. Do you remember when you sold 100,000 tons to the United States Steel Corporation?

A. I do not.

Q. Do you remember the year?

A. I do not. I think it was, though, back in 1907.

CROSS-EXAMINATION,

By Mr. Reed:

Q. Do you operate any steel company, Mr. Snyder?

A. At the present time?

Q. Yes.

A. No, sir.

Q. You are not interested in any steel works that are connected with the Shenango Furnace Company?

A. No, sir.

Q. Does it sell all of its pig iron on the market?

A. It does.

Q. Then there is no special significance in these sales to the Steel Corporation of which you have spoken?

A. None whatever.

Q. You are selling pig iron to somebody all the time?

A. All the time.

Q. As for the Clairton Steel Company, that was bought from the receivers with the permission of the United States Circuit Court of this District?

A. Yes, sir.

Q. Was it bought cheaply or expensively?

A. Very cheaply.

Q. The Steel Corporation got a bargain, did it not?

A. A very big one.

Q. Would you have been willing to take the property at the same price yourself?

A. I did put in an arrangement; or rather, I had one that I thought was going through; Mr. Oliver and myself, in connection with the Steel Corporation, were buying the property.

Q. But the Steel Corporation got it?

A. They got it.

Q. You spoke of your half interest in the Clairton mine, for which the Steel Corporation paid you a royalty of ten cents a ton; that is ten cents for your half interest in each ton taken out?

A. I had a half interest in the property.

Q. Yes.

A. In order to allow it to be worked by one interest, I sold my half interest, but I took in payment a contract to give me ten cents a ton on all the ore taken from the property.

Q. At the same rate, if you had owned the whole property the rate would have been twenty cents per ton?

A. That is right.

Mr. Dickinson: Does he mean as taken out?

By Mr. Reed:

Q. Do you mean as taken out, or cash down at the time of transfer?

A. They pay me a quarterly amount.

Mr. Lindabury: Without regard to whether the ore is taken out or not?

The Witness: Without regard to whether the ore is taken out or not.

MR. SEVERANCE: It is simply a second minimum, then, is it not?

THE WITNESS: Yes, sir.

MR REED: It is a deferred payment.

By MR. REED:

Q. Mr. Synder, you spoke also about a contract with the Duluth, Missabe & Northern Railroad for the shipment of the Shenango mine ores. Does that contract require you to ship over the D. M. & N. to the exclusion of the Great Northern if the rates or the service are not as good on the D. M. & N. as they are on the Great Northern?

A. It does not.

Q. You made that very clear about some other contracts, but not as to that one. Your obligation to ship is only provided they give you as good rates and as good service?

A. That is right.

Q. Judge Dickinson has got from you the details as to a lot of mining leases which seem to show that higher royalties were paid after the incorporation of the Steel Corporation. Have the prices for ore been going up since 1893?

A. Very rapidly.

Q. The first ore mined on the Mesabi Range was mined about 1893, was it not?

A. Yes, and the royalty was as high as 65 cents a ton.

Q. When?

A. The original lease of the Ohio mine, prior to 1900, was made by Mr. Oliver with Mr. Rockefeller, and called for a royalty of 65 cents a ton.

Q. About what year was that lease made?

A. 1895.

Q. Then the rates of royalty appear, from the instances that you gave Judge Dickinson, to have declined somewhat during the next four or five years?

A. They did.

Q. Why was that?

A. The ore was very hard to use. It was a soft ore, and the furnaces were not adapted to that kind of ore at the time, and they had to be all remodeled to use the soft Mesabi ores.

Q. In other words, from 1896 up to 1900 the furnace men were learning to use the Mesabi ore?

A. They were, and still are learning.

Q. Was there some slowing up in the iron business generally during that period, too?

A. There was.

Q. And of course that operated to keep down the price?

A. Yes.

Q. And the extent of the ore, or the ore-bearing territory was being enlarged during that time by new discoveries?

A. It was.

Q. The limits of the Mesabi Range had not yet been clearly marked out?

A. They had not.

Q. In the period of prosperity that started in 1900 or 1901 the demand for ore increased?

A. Yes.

Q. I mean the furnace demand. I do not mean the buying demand of ore land.

A. It was greater.

Q. Did that tend to increase the demand for ore lands?

A. Very largely.

Q. Did the different companies operating blast furnaces start to buy ore lands?

A. They did.

Q. You know, in a general way, what the pig iron capacity of the United States Steel Corporation is, do you not?

A. In a general way; but I cannot recall the tonnage.

Q. It is considerably over 10,000,000 tons, is it not?

A. Yes.

MR. DICKINSON: It is 16,000,000, is it not?

MR. REED: Yes, their capacity is about 16,000,000.

By MR. REED:

Q. In your experience as a furnace man, and your knowledge of the ore supplies of the Steel Corporation, would you say that they had more than a prudent business man should have provided for his own requirements?

MR. DICKINSON: That is objected to. The witness has not qualified to express an opinion on that.

By MR. REED:

Q. Just answer that question please.

(By request, the stenographer repeated the pending question as follows:)

"Q. In your experience as a furnace man, and your knowledge of the ore supplies of the Steel Corporation, would you say that they had more than a prudent business man should have provided for his own requirements?"

THE WITNESS: I would say they had not.

By MR. REED:

Q. You have been in the blast furnace business for a long time, have you not?

A. Yes, I have.

Q. You have been in the ore business for a still longer time?

A. Yes, sir.

Q. About how many years, Mr. Snyder?

A. Fifteen.

Q. In the ore business?

A. Yes.

Q. You told Judge Dickinson that you made very frequent visits to the Mesabi Range and the old ranges. Have you been at those ranges every year during the past ten years?

A. I would not say every year, but generally speaking, yes.

Q. Have you seen the published reports of the assessed tonnages of iron ore charged against each of the different large iron producers?

A. I have.

Q. And in a general way, you are familiar with the holdins of the Steel Corporation?

A. In a general way, yes.

MR. DICKINSON: You mean holdings in what—in ore, do you mean?

MR. LINDABURY: Yes; ore properties. Leasehold and fee.

By Mr. Reed:

Q. If you owned the blast furnace equipment of the Steel Corporation, would you think you had enough——

Mr. Dickinson: Objected to as incompetent and irrelevant.

Q. (Continuing) If you had the iron ore that the Steel Corporation now owns, and no more?

A. I would not feel that I had as much as I should have.

By Mr. Reed:

Q. For what reason?

A. Iron ore is becoming very scarce. The consumption is growing every year. I would like to feel fortified with more ore ahead of me always.

Q. Do you know about how many years' supply the Steel Corporation has?

A. I do not.

Q. Of course, it is more or less speculative I suppose, because we cannot tell the growth in the production.

A. That is correct.

RE-DIRECT EXAMINATION,

By Mr. Dickinson:

Q. You were asked in regard to the payments to you of the ten cents per ton royalty under your contract of sale, and you said they were quarterly. Please explain that a little more fully, showing how these payments are to be distributed.

A. It is ten cents a ton on all the ore the mine produces, and quarterly payments are made of $5,000, whether the ore is taken out of the mine or not.

Q. What do you mean by that; what do you mean when you say whether the ore is taken out or not?

A. If the mine is not operated, they pay the quarterly amount anyway.

Q. Then they pay on the estimated tonnage, whether they take it out or not?

A. They do.

Q. What is that estimated on—capacity of machinery to take it out and the amount of area that is stripped? I want to get at how these payments run, and over what period they would be distributed.

A. The payments run as long as the lease is on the property. In this case it is a fee.

Q. A fee?

A. Now, they will operate leasehold properties——

Q. This is not a leasehold, is it?

A. I want to explain this.

Q. Just explain this one. I simply want to get at how those payments are going to run, how they will be paid.

A. As soon as they begin to ship ore from the mine they will pay me on a royalty, on the shipments from the mines. When they do not make shipments from the mine, they pay me anyhow.

Q. What is the maximum that they will pay you in any one year?

MR. LINDABURY: You mean the minimum, do you not?

MR. DICKINSON: The minimum or the maximum, either.

THE WITNESS: It is $20,000 when the mine does not operate, and it is the tonnage when the mine operates, when they do operate.

MR. LINDABURY: Or if it operates in part, but not enough to make up $20,000, they pay that anyway?

THE WITNESS: Yes, sir.

By MR. DICKINSON:

Q. You mean up to $20,000?

A. Yes.

Q. Until the mine is exhausted?

A. Yes.

Q. And that will be distributed over a period of years until the mine is exhausted?

A. Yes.

Q. And if they over-pay one year, do they have a credit next year on that, when they take out more than the minimum?

A. I cannot be paid for more than the total ore that is in the property.

Q. You were asked about the reserve supply of ore of the United States Steel Corporation. Do you know the volume in tonnage of ore owned and controlled by the United States Steel Corporation?

A. I do not, except in a very general way.

Q. Can you give any estimate of the amount in tons owned and controlled by them?

A. Only from figures I have seen published, but I do not recall what those figures are.

Q. I mean from your own knowledge can you give any statement as to the volume of tonnage owned by the United States Steel Corporation?

A. It would be merely a guess.

Q. And your opinion is based upon that guess, is it?

A. Except I know the mines they have and what they ought to have in them, but I do not know what the tonnage is.

Q. So you are going on not what you know is in them, but what you think ought to be in them?

A. Largely on my knowledge of what the property should have.

Q. Should have, and upon that you base your opinion?

A. Yes.

Q. Do you mean to say that you now know and have arrayed in your mind an estimate of what each of these mines ought to produce?

A. No, sir.

Q. Have you made any figures on that?

A. No, sir.

Q. It is just a general guess, is it?

A. A general guess.

MR. DICKINSON: We have no other witnessess for this afternoon, but we can take up with the stenographer certain documents we wish to introduce.

(Whereupon, an adjournment was taken until Monday, October 7, 1912, at 10:30 o'clock A. M.)